



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शुक्रवार, 26 अगस्त, 2022 / 04 भाद्रपद, 1944

हिमाचल प्रदेश सरकार

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Dated, the 4th August, 2022

No. Shram(A) 6-2/2020 (Awards) L.C. Dharamshala.—In exercise of the powers vested under section 17 (1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the Presiding Officer,

Labour Court, Kangra at Dharamshala, H.P. on the website of Printing and Stationery Department
i.e. "e-Gazette":—

Sl. No	Case No.	Petitioner	Respondent	Date of Award / Order
1.	81/17	Urmila Devi	E.E. HPPWD, Joginder Nagar	01-06-2022
2.	56/17	Kashalaya Devi	D.F.O. Nachan	02-06-2022
3.	510/16	Mohan Singh	E.E. I&P.H. Padhar, Mandi	03-06-2022
4.	121/17	Sher Singh	D.F.O. Suket	04-06-2022
5.	124/17	Govind Ram	D.F.O. Suket	04-06-2022
6.	468/16	Sada Ram	A.S.E. HPSEBL, Ghumarwin	09-06-2022
7.	284/16	Bachnu Ram	D.F.O. Bilaspur	14-06-2022
8.	283/16	Lala Ram	D.F.O. Bilaspur	14-06-2022
9.	724/16	Ranjeet Singh	M.D. M/S Tigaksha Metallics	15-06-2022
10.	767/16	Surinder Kumar	E.E. HPPWD, Jawali	15-06-2022
11.	780/16	Puran Singh	E.E. HPPWD, Nurpur & another	15-06-2022
12.	153/15	Sharda	M.D. HP State Handloom & Handicraft	16-06-2022
13.	186/17	Ratni Devi	Dir. Higher Education Shimla	17-06-2022
14.	216/15	Oma Dutt	E.E. I&P.H. Karsog	18-06-2022
15.	215/15	Kundan Lal	E.E. I&P.H. Karsog	20-06-2022
16.	287/16	Roshani & others	E.E. HPPWD, Nurpur	21-06-2022
17.	60/22	Kamal Jeet	M/S Luminous Power, Gagret	28-06-2022
18.	156/17	Anil Kumar	E.E. I&PH, Sarkaghat	27-06-2022
19.	55/22	Ajay Kumar	M/S Luminous Power, Gagret	28-06-2022
20.	56/22	Anuj Sharma	-do-	28-06-2022
21.	57/22	Deepak Bhardwaj	-do-	28-06-2022
22.	58/22	Vishal Kumar	-do-	28-06-2022
23.	103/20	Deepak Kumar	M.D. Asterisk Healthcare	28-06-2022
24.	41/20	Arti	Pr., Govt. Medical College Chamba	28-06-2022
25.	40/20	Reetu	-do-	28-06-2022
26.	105/20	Jasbir Singh	M.D. Asterisk Healthcare, Haroli	03-06-2022
27.	52/21	Raj Kumar	Project Director, Him Institute	15-06-2022
28.	26/20	Jarmo	Pr, Govt. Medical College Chamba	24-06-2022

By order,

AKSHAY SOOD,
Secretary (Lab. & Emp.).

IN THE COURT OF Sh. HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 81/2017
Date of Institution : 28-03-2017
Date of Decision : 01-06-2022

Smt. Urmila Devi w/o Shri Hoshiyar Singh, r/o Village Metehar (Pandol), P.O. Pandol, Tehsil Lad Bharol, District Mandi, H.P. *..Petitioner.*

Versus

The Executive Engineer, B&R Division, HPPWD Joginder Nagar, District Mandi, H.P.

..Respondent.

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri N.L. Kaundal, Ld. AR

For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether time to time termination of the services of Smt. Urmila Devi w/o Shri Hoshiyar Singh, r/o Village Metehar (Pandol), P.O. Pandol, Tehsil Lad Bharol, District Mandi, H.P. during year, 1997 to year, 2000 by the Executive Engineer, B&R Division, H.P.P.W.D. Joginder Nagar, District Mandi, H.P. without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. A corrigendum reference dated 25th March, 2021 has also been received from the appropriate Government, which reads thus:

“Whereas, a reference has been made to the Ld. Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, District Kangra, H.P. vide notification of even no. dated 16-02-2017 for legal adjudication. However, inadvertently the correct facts could not be mentioned about the date of time to time termination of the claimant in the said notification. Therefore, the date of time to time termination may be read as “year, 1994 to year, 2000 instead of “year 1997 to year 2000” as alleged by workman”.

3. The case of the petitioner as made out from the statement of claim is that she was engaged as daily wage worker on muster roll in the year 1994 and she worked in continuity in the aforesaid capacity till the year 2000 under the Assistant Engineer, B&R Division, HPPWD Sub Division Lad Bharol, District Mandi, H.P. She was given fictional breaks from time to time by the respondent with a view to prevent her from completing 240 days in a calendar year so that she could not avail the benefits of continuous service available to her under the labour laws and the policies framed by the State Government of H.P. from time to time. In this manner, her working days in between 1997 to 2000 remained slightly less from 240 days. In the year 2003, she represented the department personally and through the workmen union regarding such fictional breaks but nothing was done till the year 2009, when she raised the demand and in continuation of the demand, the reference has been made to this court. According to the petitioner, the workmen junior to her namely S/Sh/Smt. Dulo Ram, Kashmir Singh, Sumer Singh, Davinder Kumar, Sargi Devi and Chanchal Kumar, who had worked without fictional breaks, were regularized in the due course *w.e.f.* 23.12.2006, whereas, the petitioner was not regularized for the aforesaid reasons. The petitioner has submitted that giving of fictional breaks in between 1994 to 2000 was illegal, arbitrary and unconstitutional act of the respondent and amounted to unfair labour practices as such breaks were given with a view to deprive the petitioner from obtaining the benefits accrued to her. On the basis of such averments, the petitioner has prayed that these breaks be condoned and she be

held in continuity of service with full back wages during the aforesaid period. It is also stated that direction be issued to the department to regularize her services after completion of eight years w.e.f. 01.01.2002 and further directions be given to pay difference of arrears.

4. The respondent has resisted and contested the petition on the plea of maintainability, non-joinder of necessary parties and the fact that the petition is bad for delay and laches. On merits, it is submitted that the petitioner was initially engaged by National Highway Division HPPWD Joginder Nagar on muster roll w.e.f. 01.1994 and she was transferred to the respondent office after the year 2004 as the office of the respondent was created in the year 2004 itself, hence, the relief, if any, could be claimed against the National Highway Division HPPWD Joginder Nagar. It is submitted that being a necessary party to the petition National Highway HPPWD Division has not been arrayed as respondent in this claim petition. It is explained that the petitioner on account of her own fault has not reported for the duties and thus numbers of days fell short of 240 in the given calendar year for her own fault and she could not get any benefit for the same. It is submitted that she has now retired in the year 2010 after having attained the age of 60 years and the claim of the petitioner was neither maintainable nor she was entitled for any relief on the ground of delay and laches. It is submitted that the claim petition is bad on account of inordinate delay in raising the demand, hence, the petition be dismissed.

5. The petitioner has filed rejoinder and reaffirmed the averments so made in the petition and denied those made in the reply.

6. From the pleadings of the parties and keeping in mind the crux of the reference following issues were framed on 29.04.2019 for determination:—

1. Whether time to time termination of services of the petitioner by the respondent during year, 1997 to year, 2000 is/was illegal and unjustified, as alleged? ...*OPP*.
2. If issue No.1 is proved in affirmative, to what service benefits the petitioner is entitled to? ...*OPP*.
3. Whether the claim petition is not maintainable, as alleged? ...*OPR*.
4. Whether the claim is bad for non-joinder of necessary parties, as alleged? ...*OPR*.
5. Whether the claim petition is bad on account of delay and laches as alleged? ...*OPR*.

Relief.

7. It is important to mention here that the corrigendum reference was received from the appropriate Government on 25th March, 2021 and therefore as per the contents of the corrigendum reference issue no.1 is required to be amended just to correct findings of the case and the same has been amended on 13-05-2022, which thus read as under:

1. Whether time to time termination of services of the petitioner by the respondent during year, 1994 to year, 2000 is/was illegal and unjustified, as alleged? ...*OPP*.

8. I have heard learned Authorized Representative for the petitioner as well as learned Deputy District Attorney for the respondent at length and considered the material on record.

9. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	: Yes
Issue No. 2	: decided accordingly
Issue No. 3	: No
Issue No. 4	: Decided accordingly
Issue No. 5	: Decided accordingly
Relief	: Petition is partly allowed per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No.1 and 3 to 5

10. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

11. The learned Authorized Representative for the petitioner has argued that the petitioner is an illiterate workman and not aware of her rights, hence, she has not agitated the matter during the years when fictional breaks were given to her. He has further argued that when she realized about the consequences then she approached the department earlier in the year 2003 and later on she raised the demand in the year 2009 when the breaks were not condoned. He has further pointed out that breaks are proved to be intentional and given purely with a view to deprive her of the rights that would have accrued to her. He has submitted that as per the settled law by Hon'ble High Court of Himachal Pradesh in several rulings the onus is always upon the respondent to explain the nature of the absence of the workman, and it is not for the petitioner to justify the same, as an employer always has upper hand. On the other hand, the learned Deputy District Attorney for the respondent has argued that the petitioner has herself absented willfully and thus the number of days fell short of 240 days during the year 1995 and from 1997 to 2000, hence, the respondent cannot be blamed for the same. He has further argued that issue has been raised after long period by the respondent which means that she remained willfully absent during the given period and now when she found that she shall be deprived of her right to be considered for regularization, only then she agitated the matter. He has prayed for dismissal of the claim. He has also argued that the claim is bad for want of necessary party as the National Highway, HPPWD Joginder Nagar has not been impleaded as a party in this reference.

12. It is an admitted fact by now that the petitioner stands retired *w.e.f.* 31.12.2010 after having attained the age of sixty years. She is not in service any more. It is also clear from the material on the record that the demand was raised by the petitioner while she was in service and the matter remained under conciliation proceedings for long and the reference was ultimately made by the appropriate Government in the year 2017. The delay in making the reference after taking into account the demand raised by the petitioner is not within the powers of the petitioner and she can not be blamed for this delay, when it is an admitted fact that the demand was raised in the year 2009 while she was in service. If the Government has taken so many years to refer the matter, petitioner cannot be blamed for the same. Otherwise also, it is not the case of reinstatement where the petitioner has been out of work for large number of years. It is simply a case for condonation of the fictional breaks given to her few years back. Thus the delay has no role in the same.

13. It is settled law of Hon'ble High Court of H.P. in **Keshav Ram vs. State of H.P. & Others 2020 Law Suit (HP) 215** that a labourer cannot afford the luxury to remain absent for days together from the work and it is always for the employer to prove that the absence of the workman was intentional and he was not given fictional breaks. Since the entire record remains with the employer, therefore, it is for the employer to prove that the workman had absented himself/herself willfully and therefore, he/she could not complete 240 days during the calendar year. The Hon'ble Court had also placed reliance upon judgment of the Hon'ble High Court in **CWP(T) No. 8145 of 2008 Beli Ram vs. State of H.P. and others decided on 02.06.2009.**

CWP(T) No. 8143 of 2008, titled as Layak Ram vs. State of H.P. & Others, decided on 15.06.2009, also, it was held by the Hon'ble Court that the plea raised by the respondent-department that the petitioner might have abandoned his job for few days every month cannot be accepted. The plea of abandonment is required to be proved like any other facts. A person belonging to lowest strata of the society cannot afford the luxury to remain absent. It cannot be presumed that the petitioner could remain absent knowing fully well the consequences. Rather, the respondents have not permitted him to complete 240 days in the year 2001 by giving him artificial breaks of few days every month.

14. Relying upon the aforesaid rulings, the onus in the case in hand, is upon the respondent to prove that the absence of the petitioner was intentional and she was never given fictional break at any point of time. The petitioner has appeared as PW1 in the witness box and tendered her affidavit Ext.PW1/A in which she has specifically stated that she was told that there was no work for her and break was given to her. On the other hand, it is pleaded case of the respondent that work was always available. Once such plea is taken by the respondent, therefore, it cannot be take the plea that work was not available. Even no such plea has been taken in the present case. When the mandays chart for the year 1994 to 2010 Ext. RW1/F is examined, it is clear that in the year 1994 she has worked for 257 days and in the year 1995 she worked for 232 days and her days thus fell short by 08 days to make it 240 days. In the year 1996 she worked for 242 days. Thereafter in the year 1997 she worked for 232 days, in the year 1998 she worked for 233 days, in the year 1999 she worked for 233 days and in the year 2000 she worked for 228 days. From 2001 to 2010 she has worked for more than 300 days. Thus days in the year 1995 fell short by 08 to make the same 240, in the year 1997 also days fell short by 08 days, in 1998 days fell short by 10, in 1999 days fell short by 07 and in the year 2000 days fell short by 12 days. The petitioner has come up with the plea that since she was given fictional breaks, therefore, she could not complete 240 days in the calendar year, whereas, the respondent has come up with the plea that she remained willfully absent during this period. The respondent examined Shri Sanjeev Kumar Sood, Executive Engineer, HPPWD Joginder Nagar as RW1 who has tendered his affidavit Ext.RW1/A. He was cross-examined wherein he tried to justify the case of the respondent. As referred hereinabove, the settled law on this point is to the effect that it is the employer who should prove that the absence of the workman was intentional and willful. The employer can always ask the absentee workman in writing as to why he had absented on the previous date. The employer can issue letter of cautioned to such a workman informing him/her that in case the absents continuously then he may loose valuable rights under labour laws. It is for the employer to discharge such duties and once such duties are discharged, only then the employer can take the plea that absence of the workman was willful and intentional. It is to kept in mind always that the Act is a beneficial legislation meant to protect the interest of working class who are always at the mercy of their employer. It is always the duty of the employer to not only ask the employee regarding his absence on the previous date but also caution him in writing of the consequences thereof. The employer has to keep the record of all such writings so that the same could be placed before the court, in case, any dispute arises in later point of time. Had the petitioner been willfully absent, the respondent should have placed on record any show cause notice served upon her regarding her absence from duty. The respondent could have placed on record any letter of caution issued to her informing her of the fact that she could lose valuable rights of consideration of her case for regularization in near future, in case, she absented herself likewise. No such document has been placed on the record and thus the absence cannot be said as intentional and willful. It is always for the employer to take cognizance of the absence of its workman and maintain a record after obtaining an explanation in writing from the workmen. The reasons so disclosed in the writing/reply may sometimes be bonafide and such absence can always be condoned during the conciliation proceedings, when entire material is placed before the labour officer. No document has been placed on the record by the respondent showing that the petitioner was not only asked to show cause for her absence but she was reminded time and again that such casual absence from duty may harm her rights of regularization in future.

When there is no such material on the record, therefore, the plea of intentional/willful absence cannot be accepted when the work was always available. The presumption goes that it was a fictional break given to the petitioner so that she could not complete 240 days in the calendar year and her case could not be considered for regularization as per the policies of the State Government.

15. The learned Deputy District Attorney has tried to make case that since National Highway HPPWD Joginder Nagar with whom the petitioner has worked during time of alleged breaks has not been associated as party respondent, therefore, it cannot be said in the absence of the explanation from National Highway HPPWD Joginder Nagar that the petitioner was not intentionally absent. This plea is liable to be rejected for the reasons that at the time of raising of dispute the petitioner was working with the respondent, and it was therefore, for the respondent department to contest the petition and the National Highway HPPWD Joginder Nagar at the most could be treated as necessary witness who could always be asked to produce the record pertaining the position of the petitioner in the year 1995 and then from the year 1997 to 2000. Any officer posted as a in-charge of the National Highway HPPWD Joginder Nagar during the disputed period could have been produced as a witness with the record. Since the petitioner was not working with National Highway HPPWD Joginder Nagar at the time of demand, therefore, the respondent alone is the necessary party in the present case and National Highways HPPWD Joginder Nagar could be treated as a necessary witnesses. There is a difference between a necessary witness and a necessary party which has always be taken into account while recording a finding as to whether a particular person is a necessary party or a necessary witness.

16. It is an admitted fact on the record that other workman who were engaged after the petitioner stands regularized, whereas, the services of the petitioner could not be regularized for the reason that she had not completed 240 days in the years 1995 and thereafter from 1997 to 2000. The petitioner has placed on record documents Ext.PW1/B to Ext.PW1/D showing the salary difference of Dulo Ram and the petitioner. This document is not very relevant and this court can not entered into the merit whether she could have been regularized or not as it is beyond the scope of the reference. It is entirely a different matter and a workman has to be regularized by the department in accordance to the policies of the Government. There is no dispute before this court with regard to the fact whether she could have been regularized or not. The dispute/reference before this court is with respect to time to time termination.

17. Therefore in view of my discussions above it is held that time to time termination of the petitioner was bad under the provisions of the Act as work was available with the respondent and there was no question of giving her fictional breaks. Had the fictional breaks not been given, the respondent department would have sought explanation of the petitioner in writing for her absence and placed the same on the record for future reference. It is therefore, held that the fictional breaks given to the petitioner by respondent were illegal and unjustified and against the provisions of the Act, hence the petition is maintainable. All these issues are decided accordingly.

ISSUE NO. 2

18. In view of the findings on the above issues, the petitioner is held entitled for continuity in service *w.e.f.* the year 1994 till the year 2000, seniority and consequential service benefits. However taking into account the facts and circumstances of the case, she is held not entitled for back wages for the aforesaid days. She shall be entitled to continuity, seniority and consequential services benefits in the same manner as if she had remained in continuous service *w.e.f.* 1994 to 2000 and had completed 240 days in every calendar year with no fictional breaks. Issue No. 2 is also decided accordingly.

RELIEF

19. In view of my above discussions, the present claim petition succeeds in part and the same is partly allowed. Breaks in service given to the petitioner by the respondent in the year 1995 and from the year 1997 till the year 2000 are held to be wrong and illegal. The break period is ordered to be counted for the purpose of continuous service, seniority as well as consequential service benefits, *except for back wages*. Parties are left to bear their own costs.

20. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 1st day of June, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF Sh. HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 56/2017
Date of Institution : 24-01-2017
Date of Decision : 02-06-2022

Smt. Kashalaya Devi w/o Shri Kamlesh Kumar, r/o Village Tarjhun, P.O. Majhar Kelodhar,
Tehsil Chachyot, District Mandi, H.P. *..Petitioner.*

Versus

The Divisional Forest Officer, Nachan Forest Division at Gohar, District Mandi, H.P.
..Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri Abhishek Lakhanpal, Ld. Adv.

For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether termination of services of Smt. Kashalaya Devi w/o Shri Kamlesh Kumar, r/o Village Tarjhun, P.O. Majhar Kelodhar, Tehsil Chachyot, District Mandi, H.P. during September, 2015 by the Divisional Forest Officer, Nachan Forest Division at Gohar, District Mandi, H.P., without complying with the provisions of the Industrial Disputes Act,

1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?"

2. As per the statement of claim, the respondent department is doing public utility services and is thus governed by the provisions of the Act. According to her, she was engaged on daily wage basis as workman in Forest Division Nachan at Gohar District Mandi and she worked in different blocks under RO Nachan. She had been obedient and hard working and did her work with sincerity. She was given artificial breaks by the respondent despite of the availability of work. It is her case that the workmen junior to her have been retained and they are presently working. The petitioner has submitted that her services were finally terminated in October 2015 despite of the fact that she had worked for more than 240 days every year since 2011 and the provisions of the Act have thus been violated. It is further alleged that the respondent is violating the provisions of the Act contained in section 9A and 10 by taking the work from the workmen on Bill basis. The principles of 'First come and Last go' has also been violated. On these averments, the petitioner has prayed for her re-engagement, continuity in services with all consequential benefits.

3. The respondent has resisted and contested the claim and pleaded that petition was not maintainable for the reason that petitioner was never engaged as daily wage worker by the respondent. It is stated that she was allotted the work on Bill basis *w.e.f.* July 2013 to December 2014, July 2014 to December 2014 and March 2015 to July 2015, as per H.P. Govt. Notification. It is further submitted that neither any junior to her has been retained nor regularized and there is no violation of the provisions contained in Section 9-A and 10 of the Act, hence the claim petition be dismissed.

4. The petitioner has filed rejoinder and reaffirmed the averments so made in the petition and denied those made in the reply.

5. From the pleadings of the parties, following issues were framed on 21.06.2019:—

1. Whether termination of services of the petitioner during September, 2015 by the respondent is/was illegal and unjustified, as alleged ? ...OPP.
2. If issue no.1 is proved in affirmative to what service benefits the petitioner is entitled to ? ...OPP.
3. Whether the claim petition is not maintainable, as alleged ? ...OPR.

Relief.

6. I have heard learned counsel for the petitioner as well as learned Deputy District Attorney for the respondent at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	: decided accordingly
Issue No. 2	: decided accordingly
Issue No. 3	: decided accordingly
Relief	: Petition is dismissed per operative portion of the Award

REASONS FOR FINDINGS

ISSUES No. 1 to 3

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. The petitioner has alleged that she was engaged on muster roll and her services were terminated in September 2015 without following the process of law and the workmen junior to her were retained. The respondent, on the other hand, has denied this fact and alleged that she was allotted the work on Bill basis and she was not engaged on muster roll as there was notification of Govt. of H.P. dated 28.04.2009 whereby Bill/tenders system was introduced in the departments. This notification was circulated amongst all the departments by the Government in the year 2009 itself and all the departments were directed to follow the same in letter and spirit. When this notification is carefully gone through it becomes clear that it came into being with the purpose of introduction of bills/ voucher/ tender system for all works and it was to apply to all the new workers except those already working on daily wages. Since this notification was circulated and implemented in the year 2009, there was no question for the respondent department to engage the services of the petitioner in the year 2011 on muster roll basis as no Government department shall dare to violate the instructions of the Government and engage the labourers contrary to the directions of the Government. The notification placed on the record as Ext. RW1/B reveals a complete scheme in which the works had to be executed under the same. It is clear that works below or upto Rs.1 lac were to be executed on bill basis on sanctioned schedule of rates without calling for the quotations. Quotations were to be called in those cases where the work exceeded Rs.1 lac and went upto Rs.5 lac. In those cases where the cost of the work exceeded Rs.5 lac tenders were to be called. This notification is being implemented by all the departments of Himachal Government and the respondent department is not an exception to the same. Since the petitioner was engaged in 2011 it is but natural that there was no question of engaging him on muster roll basis. Whether this notification is an instance of unfair labour practice or not? This question cannot be gone into by this court in this reference as reference is not to examine the legality of this notification. Had there been the reference adjudicate upon the fact whether introduction of bill basis/tender system by the respondent was an instance of unfair labour practices, the court could have adjudicated and answered the same. No such reference has been sent for adjudication to this court, and therefore, the court cannot comment upon the fact whether introduction of bill system is an instance of unfair labour practice or not. Since there is notification of the Government of Himachal Pradesh and since all the departments are bound to follow the same, it therefore, strengthens the case of the respondent to the effect that the petitioner was given the work on bill basis system in December, 2011 and she was not engaged in muster roll basis.

10. The petitioner had applied for copy of the muster roll and mandays chart under RTI through Sh. Chaman Malhotra Advocate, copy whereof is placed on record, though not marked or exhibited. The information was supplied to the effect that no such muster roll was available as work was not done on muster roll basis. The petitioner appeared as PW1 in the witness box and tendered her Affidavit Ext.PW1/A. The affidavit is replica of the petition and she was subjected to cross examination, wherein, she claimed that she was made to work on muster roll. She has tendered on record copy of Bills Ext.PW1/B-1 to Ext.PW1/B-10. The petitioner has herself relied upon the Bills through which she has worked. Once she is herself relying upon the Bills, it is but natural that she has not worked on the muster roll. There was no reason for her to work on muster roll, when there was a complete ban on such engagements by the department after the notification. When she has worked on Bill basis from very beginning, there is no change in the terms and conditions of her employment and thus no question of her termination or giving her fictional brakes arises. In case of Bill basis the person to whom the work has been allotted, can complete the work either himself or

through his family members or by employing his labour. On the completion of the work, the same is assessed as per the parameters and rates as sanctioned by the government and the payment is made in lump-sum. On the other hand, daily wage work is done on per day basis between the fixed working hours, whereas the work on Bill basis can be done at any time, whether during the morning hours or evening hours or during the night hours. What is to be seen is the assessment of the work and application of the prevalent rates to the same so that a fixed amount is calculated. In short, the Bill basis work is like a petty contract, awarded to small contractors, who earn profit by working on the project and completing the same within a short period of time so that they could earn more than the daily wages per day. A perusal of the bills relied upon by the petitioners, Ext. PW1/B1 to Ext. PW1/B10 shows that the work done by the petitioner has been assessed as per the rates prescribed by the Government and not in terms of the days spent in execution on the same. Ex.PW1/B1 shows that a sum of Rs. 6900/- was received by Kashalaya Devi and it was with respect of bidding and hoeing of plants in poly bags which were 38500 in number similarly bill Ext.PW1/B4 shows that she was paid Rs. 9600/- against this bill in the year 2014. Ex.PW1/B5 shows that petitioner has received a sum of Rs.9950/- in June and July, 2014. She has been paid for digging of 1100 pits, filling up the same and planting deodar 850 numbers. All these documents relied upon by the petitioner show that she was not paid the daily wages but she was paid for the consolidated work which was assessed as per the prevalent norms. It is therefore, very much clear that the petitioner has worked on bill basis and was not on daily wage work. When such is the position, the provisions of Section 25-F of the Act are not applicable and it can not be said that the services of the petitioner were terminated illegally and an unjustified manner as claimed. The petitioner, therefore, is not entitled for any service benefits. The petition is, however, held as maintainable as the same has been filed after the reference was received by this court. All these issues are decided accordingly.

RELIEF

11. In view of my above discussions, the present claim petition merits dismissal and is accordingly dismissed. Parties are left to bear their own costs.

12. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 2nd day of June, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF Sh. HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 510/2016
Date of Institution : 23-08-2016
Date of Decision : 03-06-2022

Shri Mohan Singh s/o Lt. Shri Inder Singh, r/o Village Aran, P.O. Katindi, Tehsil Sadar,
District Mandi, H.P. ..Petitioner.

Versus

The Executive Engineer, I.&P.H. Division, Padhar, District Mandi, H.P. *..Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri Abhishek Lakhanpal, Ld. Adv.

For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether alleged termination of services of Shri Mohan Singh s/o Lt. Shri Inder Singh, r/o Village Arna, P.O. Katindi, Tehsil Sadar, District Mandi, H.P. *w.e.f.* 21.03.1995 by the Executive Engineer, I.&P.H. Division, Padhar, District Mandi, H.P., who had worked on daily wages and has raised his industrial dispute after more than 18 years *vide* demand notice dated 28.11.2013, without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, keeping in view of delay of more than 18 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. The petitioner has stated in his statement of claim that respondent is a Public Utility Services Department employing hundreds of workers and was governed by the provisions of the Act. The petitioner was engaged as daily wage beldar in the year 1994 and he worked as such till 31.12.1995 when his services were illegally terminated without complying the provisions of the Act and the rules. The petitioner had worked for 240 or more days in each calendar year without a break. The grievance of the petitioner is to the effect that at the time of termination of his services, workmen junior to him were retained and his services were not re-engaged despite of his requests and desire to work. The funds were also available at the time of his retrenchment and the workmen junior to him were not only retained but their services have been regularized. On these averments, the petitioner has prayed that the respondent be directed to reinstate him with the seniority, back wages and continuity in services etc. and his services be regularized as per the policy, as well as in accordance with the judgments of Hon'ble Apex Court.

3. The respondent has resisted and contested the petition on the plea of maintainability. On merits, it is admitted that petitioner was engaged as daily wage beldar in the year 1994. As per the respondent, the petitioner has worked intermittently up to 20.03.1995 and thereafter left the work at his sweet will. The respondent has denied that the workmen junior to the petitioner were retained and later on regularized. The dispute is said to have been raised in the year 2013 after a period of about 18 years without any explanation for the long delay, and therefore, the petitioner is not entitled for any relief as claimed by him.

4. The petitioner has filed rejoinder wherein he has re-affirmed the averments made in the petition and denied those made in the reply.

5. On the pleadings of the parties, following issues have been framed on 17.07.2018:—

1. Whether termination of the service of petitioner by the respondent *w.e.f.* 21.03.1995 is/was legal and justified as alleged ? *...OPP.*

2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to ? ...*OPP*.

3. Whether the claim petition is not maintainable in the present form as alleged ? ...*OPR*.

4. Whether the claim petition is bad on account of delay and laches as alleged ? ...*OPR*.

Relief.

6. I have heard learned counsel for the petitioner as well as learned Deputy District Attorney for the respondent at length and considered the material on record.

7. For the reasons recorded hereinafter, my findings on the aforesaid issues are as under:—

Issue No.1 : decided accordingly

Issue No.2 : decided accordingly

Issue No.3 : No

Issue No.4 : decided accordingly

Relief : Petition is **partly allowed** awarding lump-sum compensation of ₹25,000/- as per operative part of the Award.

REASONS FOR FINDINGS

ISSUES NO.1 to 4

8. All these issues are taken up together for the sake of convenience and to avoid repetition of evidence, however separate findings shall be recorded on every issue at the end.

9. The petitioner and the respondent have taken divergent stand. The petitioner alleges his termination, whereas, the respondent alleges abandonment on the part of the petitioner. The mandays chart tendered on the record as Ext.RW1/B has not been disputed and it is thus an admitted document. As per this document, petitioner worked in the year 1994 for 76 days and in the year 1995 for 88 days. Once the respondent department has taken the plea of abandonment, it has invited the onus upon itself to prove that the petitioner has abandoned the job.

10. It is well-settled that the plea of abandonment of work is a technical plea and, in case, a workman absents himself from the work without any intimation, no presumption of his having abandoned the job/work can be drawn. The abandonment should always be in express form. In case, the workman absents all of sudden from the work, the employer is under an obligation to call the workman by way of notice and ask him to resume the work or justify his absence. Since the Act is meant to act in the benefit of the workmen, the notice issued by the employer to the absentee workman should apprise such a workman of the consequences of such absence so that the workman is able to protect his interest. In case, the workman after having received such a notice does not resume the work, then the employer must record his satisfaction in writing to the effect that non-reporting to the work by such a workman despite of being informed and cautioned of the consequences of his absence amounts to abandonment of his work and such a workman has no intentions to work any further. Only thereafter the employer should proceed further to engage fresh hands in his place. In case such a procedure is not followed by the employer, he can not be permitted to take the plea of abandonment of the work by the workman.

11. In this case, it is neither pleaded nor proved by the respondent that any notice was served upon the respondent asking him to report to his duties. No notice was served upon the petitioner apprising him of the consequences, in case, he did not report back to the work. The petitioner left the work and the respondent took no steps to call him back. This is not an act of abandonment of work. The abandonment would have occurred in a situation when the petitioner had not reported back to work after he was informed by way of notice apprising him of the valuable rights which he would not acquire in future on account of his failure to report to the work. The plea of abandonment is thus not established in this case.

12. It may be stated here that once the plea of abandonment of work taken by the respondent is rejected, the workman is not relieved of his duty to prove his case. Rejection of the plea of abandonment of work as taken up by the respondent impliedly means that the services of the petitioner were terminated by the respondent either by way of oral order or by not calling upon him to report back to the work. The termination is not the sole factor the court has to take into account, but it is one of the factor amongst others to be weighed while the relief of reinstatement is subject matter of consideration.

13. The promptness in raising the demand by the workman is the crucial factor, the court has to always weigh. The moment the dispute arises in which the major claim of reinstatement is involved, the workman should raise the demand at once without loss of time so that the matter is settled with promptness before the conciliation officer or referred to the court for an adjudication so that the issue is settled at earliest. The logic is simple on this insistence in raising the demand with promptness. In this manner the workman does not stay out of work for a longer period and the respondent is also not overburdened with the arrears of back wages. Above all, reinstatement of such a workman after giving him continuity in service and seniority over those who are already working, does not cause a sense of dissatisfaction amongst already working workmen. On the other hand, a workman, who sleeps over his rights and does not raise the demand with utmost promptness can not claim the relief of reinstatement as a matter of right. The court can in such cases mould the relief and grant compensation instead. The reasons for the delay are to be examined by the court before proceeding either way. In case, the delay is proved to have been caused not for the inaction on the part of the petitioner, the court can always take such a fact into account.

14. The petitioner has stepped in the witness box as PW1 and tendered on record his Affidavit Ext.PW1/A and the Seniority list as Ext.PW1/B. It is the reference itself that the demand was raised after 18 years by the petitioner from the date of his alleged retrenchment. It was for the petitioner to produce the material on the record to show that delay was not intentional, but it was caused for the reasons beyond his control. Neither the claim petition nor the evidence speak of the facts why the demand was raised after more than 18 years. The petitioner has thus not explained the delay in raising the demand and it is an established as well as admitted fact that the petitioner slept over his rights for around 18 years and raised the demand very late.

15. The next question the Court is supposed to look into before proceeding to examine further is whether there is a violation of the provision contained in Section 25-F of the Act or not. When the petitioner has worked for 76 days in the year 1995 and 88 days only in the year 1994, the aggregate thereof does not touch the figure of 240 days. When such is the position, the provisions contained in Section 25-F of the Act are not even remotely attracted and there was no requirement of issuance of notice before the alleged termination.

16. The petitioner alleges that after his retrenchment new workmen were engaged and he was not given priority by issuing notice to him. The petitioner has placed reliance on the seniority list, which is Ext.PW1/A on the record. Sh. Rajesh Kumar, the Executive Engineer (RW1) was also

confronted with this seniority list. He has stated that name of the petitioner appears at Serial No. 475 in the seniority list. He has admitted that persons at serial No. 44, 53 and serial No. 150 were engaged in the year 1995. Thus, it is clear that after the petitioner did not report to the work, new workmen were engaged and thus principle contained in Section 25-H were violated. As aforesaid, the respondent has although come up with the plea that the petitioner has himself abandoned the work, but the respondent has failed to prove this technical plea on the record by leading evidence as has been already held hereinabove. It impliedly means that the services of the petitioner were retrenched in the year 1995 by not calling him to work once he had absented himself. The respondent has since not taken the steps to call upon the petitioner to report to his work and perform the duty of such an inaction on the part of respondent amounts to termination of the services of the petitioner by conduct and engaging fresh hands without issuing notice to the petitioner amounts to violation of provisions contained in Section 25-H of the Act. Thus, the petitioner has been successful to prove that fresh hands were engaged without giving him a priority.

17. The petitioner is out of work *w.e.f.* 20.03.1995 and he is said to have raised the dispute in the year 2013 after a period of about 18 years without any explanation for the long delay. He is thus proved to have slept over his rights. All these facts shows that the petitioner has not raised the demand on time and it took more than 18 years to raise the demand. In the aforesaid background, the delay of 18 years in raising the demand is fatal and the petitioner is proved to have slept over his right for years together despite of the fact that cause of action for raise the demand had arisen to him *w.e.f.* March 1995 itself. In these facts and circumstances, the reinstatement cannot be ordered as such reinstatement after long period shall act as a discouragement to those workmen who are working continuously and a person who has not worked at all shall become their senior and get the services benefits before them. Such reinstatement shall involve unnecessary financial burden on the State and the petitioner can not be rewarded for the delay caused by him in raising the demand. Had the petitioner raised the demand at earliest position would have been different. His claim for reinstatement certainly suffers from the delay and laches for which he is solely responsible. He should have realized long back that he has to raise the demand on time. Thus the claim of the petitioner for reinstatement can not be favourably considered.

18. It is by now settled law that where the relief of reinstatement is refused to the petitioner on the ground of delay in raising the demand, the relief can be molded by the court and he can be granted compensation instead of reinstatement for the loss he has suffered. In the case in hand also, taking into account the number of the years the petitioners has worked and failure of the respondent in proving the plea of abandonment as taken by it, the petitioner needs to be compensated in terms of money by awarding compensation. Taking into account the age of the petitioner coupled with the fact that he has worked for a small tenure with the respondent in the past and further the fact that he was never recalled by way of notice by the respondent when he had absented himself. It is therefore held that the termination of the services of the petitioner in the aforesaid manner was illegal and unjustified. Issue No. 1 is held in affirmative.

19. Since the petitioner has caused inordinate delay in raising the demand, therefore, for the reasons recorded hereinabove, the petitioner is liable to be compensated by awarding a sum of ₹25,000/-. The issue No. 2 is therefore decided accordingly.

20. Since the appropriate Government has made the reference and the claim has been filed in support of the reference, it is held as maintainable and issue No. 3 is decided against the respondent.

21. It has already been held that there has been inordinate delay in raising and for this reason the relief claimed has been molded towards grant of the compensation, the issue no. 4 is decided accordingly.

RELIEF

22. In view of my discussion on the above issues, it is held that though there had been violation of Sections, 25-G and 25-H of the Act by the respondent, in this case, but since the petitioner had raised demand after a gap of 18 years his claim for reinstatement has thus been frustrated by delay and laches, hence reinstatement and other consequential service benefits cannot be granted in his favour, yet he is held entitled for compensation to the tune of ₹25,000/- (Rupees Twenty Five thousand only), which would be paid within four months by the respondent from the date of receipt of Award failing which the respondent shall be liable to pay the interest @ 6% per annum on the said amount from the date of award till the date of its realization. Parties are left to bear their own costs.

23. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 3rd day of June, 2022.

Announced:
03.06.2022

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref No. : 121/2017
Date of Institution : 21-06-2017
Date of Decision : 04-06-2022

Shri Sher Singh s/o Shri Ludermani, r/o Village Jhahru, P.O. Podakothi, Tehsil Sunder Nagar, District Mandi, H.P. *..Petitioner.*

Versus

The Divisional Forest Officer, Suket Forest Division, Sunder Nagar, District Mandi, H.P. *..Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri L.B. Sharma, Ld. Adv.

For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether termination of the services of Shri Sher Singh s/o Shri Ludermani, r/o Village Jhahru, P.O. Podakothi, Tehsil Sunder Nagar, District Mandi, H.P. *w.e.f.* 31-10-2015 (as alleged by the workman) by the Divisional Forest Officer, Suket Forest Division, Sunder Nagar, District Mandi, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/management?”

2. The petitioner has averred in his statement of claim that he was initially engaged as daily wage beldar in the year 1982 in Block Office Rohanda, Tehsil Nihri, Forest Range Jai Dei, District Mandi, H.P. and he discharged his duties with hard work honestly and efficiently and completed 240 days in each calendar year upto 1990 where after artificial breaks were given to him and he was deprived of right of being regularized against the post despite of the fact that the sufficient work was always available with the respondent. On 31.10.2015, the services of the petitioner were terminated by way of oral order and the workmen junior to him namely S/Shri Hari Chand, Surender Kumar, Hem Chand, Jhabe Ram, Chaman Lal and Smt. Meena were retained. The services of all the above except Shri Hari Chand have been regularized as Sh. Hari Chand has unfortunately expired. It is submitted that the petitioner requested the respondent to engage his services but when request was not considered he filed a Writ Petition No.9366/2012 before the Hon'ble High Court of Himachal Pradesh which was decided on 22.12.2012 after consolidating the same with several other writ petitions and the respondent was directed to take recourse of engagement of daily wagger only after notifying such vacancies. The petitioner was engaged intermittently since December 2014, but no muster roll has been issued to the petitioner and the payments have been made by him on bill basis. After the oral termination, the matter was raised before the Labour Commissioner Shimla for conciliation and when conciliation could not be effected the present reference was filed. On such averments, the petitioner has prayed that his oral termination dated 31.10.2015 be declared as wrong and the seniority list be got prepared *w.e.f.* 1982 and the seniority, continuity in service and back wages after condoning artificial breaks be also granted to him.

3. The respondent has resisted and contested the claim petition on the plea that the petitioner has not worked with the respondent even for a single day as a daily waged worker as alleged by him. It is further submitted that when the petitioner has not worked even for a single day in the aforesaid capacity, therefore, completion of 240 days in every year till 1990 as claimed, does not arise at all. Filing of writ petition is admitted but it is submitted that some directions were given in the same. It is submitted that since the petitioner has not worked as a daily wage worker with the respondent even for a single day, therefore, there was neither any question of retrenchment nor he is entitled for any relief as claimed, hence the petition be dismissed.

4. The petitioner has filed rejoinder and reaffirmed the averments so made in the claim petition and denied those made in the reply. He has also filed on record the copy of reply to the demand notice by the respondent dated 12.12.2016 and has said that the respondent claimed that the record of the department in fire till March, 2000 has been destroyed on account of the fire incident in the office which fact shows that the respondent intend to deny the benefit of the petitioner.

5. From the pleadings of the parties and the crux of the reference following issues were framed on 29.05.2018 for determination:—

1. Whether termination of services of the petitioner by the respondent during *w.e.f.* 31-10-2015 is illegal and unjustified as alleged? ...*OPP.*
2. If issue no.1 is proved in affirmative to what relief petitioner is entitled to? ...*OPP.*
3. Whether the present claim petition/reference is not maintainable in the present form as alleged? ...*OPR.*
4. Whether the claim petition has become infructuous as alleged? ...*OPR.*

Relief.

6. I have heard learned counsel for the petitioner and learned Dy. D.A. for the respondent at length and considered the material on record.

7. For the reasons recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	: Negative
Issue No. 2	: Negative
Issue No. 3	: No
Issue No. 4	: No
Relief	: Petition is dismissed as per operative portion of the Award

REASONS FOR FINDINGS

ISSUES No. 1 to 4

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. Initially the petitioner has pleaded in the claim petition that his services were terminated in the year 2012 but later on the pleadings were amended and date of termination was inserted as per the language of the reference. The reference is to the effect whether the services of the petitioner was terminated *w.e.f.* 31.10.2015 as alleged by the workman. The reference is always made by the appropriate Government when there is dispute of facts between the parties and the efforts for conciliation fails. Thus the facts are not admitted by the parties during conciliation proceedings, and it is for this reason that a reference is made to the court and it is thus for the parties to establish their respective cases by leading evidence before the court.

10. In the instant case, the petitioner has alleged that he had been working with the respondent department right from the year 1982, and the respondent has specifically denied this fact. The initial onus is thus upon the petitioner and he is therefore, supposed to discharge the same. It is well settled law that self serving statement of the petitioner is not sufficient to prove his case, when a serious question of fact is subject matter of the litigation. In the case in hand, the petitioner though claims that he has been working on daily wages with the respondent right from the year 1982 yet no person from his family, no relative and none from the respondent department or his native village has been examined by him in the witness-box to at least speak *prima-facie* regarding the fact he has seen the petitioner working with the respondent department since the year 1982. None has appeared before this court to even make a whisper of the fact that he had ever seen the petitioner going towards the office or the work-site of the respondent department at any point of time. The petitioner alleges that some persons junior to him have been retained. He has given name

of those juniors in para no.3 of the petition. It is true that these junior person will not appear as witnesses before the court to support the case of the petitioner as the case of the petitioner is prejudicial to their interest yet the petitioner could have examined any other person who knew these named person to depose about the facts accordingly. None has been examined by the petitioner to prove the fact that he has been working with respondent since the year 1982 till the year 1990 in continuity and then with fictional breaks. Even if it is presumed for a while that the record in the office of the respondent was gutted to fire till the year 2000, there must be some counter record to the same. After all, the public funds are involved and payment to such workmen is made from the Government funds. The petitioner could have examined the senior officers of the respondent department asking them to produce the counter record but nothing has been done by him. Simply alleging that the petitioner was a daily wage worker since the year 1982 with the respondent is not sufficient without examining any person to corroborate the statement of the petitioner. A little attempt has been made to support the case by examining Shri Gere Ram as PW2 in the witness box. This witness claims that he has worked with the petitioner in the year 2008 and 2009. He claims that he has been working with the petitioner and others since the year 2008. The respondent on the other hand have been come up with the plea that no daily wage workman was engaged in the department after the year 2005 as there was a notification of the Government which prohibited such an engagement. Such facts has been pleaded in para no.1 of the reply to demand notice Ext. PW4/A. When as per the respondent no person was engaged as daily wager after 2006 then it was again for the petitioner to name any person who was engaged as daily wage by the respondent after the year 2006. Shri Gere Ram although submits that he had been working since 2008 with the petitioner yet there is no record pertaining to him whether he was working as daily wager or bill basis. The vague statement of this Shri Gere Ram is also not sufficient to support the case of the petitioner when there is no official record pertaining to the engagement of the petitioner. If the record of the respondent was destroyed in the till the year 2000, the record after the year 2000 was very much available. In case the petitioner had worked with the respondent in the year 2007-08, some record could have been maintained with respect to the same, but no such record has been produced before the court even by the respondent. The respondent has come up with the plea that since the petitioner has not worked with the respondent at all, there was no question of maintaining his record. The forest department is a public office and it can not be believed that the services of the petitioner were engaged without there being any documentation. In case the wages were paid to the petitioner, a record could have been maintained by the department, which the petitioner could have summoned in the court. The petitioner has not taken any steps to cause the record of Sh. Ghare Ram and others pertaining to the year 2008 produced in the court so that the court could have examined the same and found the signatures of the petitioner in lieu of the payment received by him. It cannot, therefore, be said that Shri Gere Ram has been able to establish that the petitioner was engaged on daily wage basis by the respondent and has worked as such right from the year 1982. The statement of Sh. Gere Ram is, therefore, not sufficient to corroborate the statement of the petitioner. The petitioner has also examined Shri Shyam Lal as PW3, who was asked to produce the record. He has produced copies of bills Mark-B1 to Mark-B10 and has exhibited as Ext. PW3/A1 to Ext. PW3/A10. These bills show that petitioner has worked on bill basis and was not on daily wager and these bills pertain to the year 2015-2016. These bills prove that after the disposal of the writ petition before the Hon'ble High Court of Himachal Pradesh this person had worked with the respondent on bill basis.

11. The Learned counsel for the petitioner has drawn the attention of this court towards copy of judgment passed by our Hon'ble High Court in various consolidated writ petitions on 20.12.2012. Photocopy of the judgment has been placed on record as Mark-B. The Learned counsel for the petitioner has submitted that since it has been the plea of the respondent department before the Hon'ble High Court that these persons have abandoned their work themselves, therefore, it proves that the petitioner was engaged by the respondent department as a person can abandon the work after he was engaged. On the other hand, learned Deputy District Attorney for the respondent

has argued that no such specific findings were given by the Hon'ble Court regarding the respondent department, and therefore, the petitioner can not have any advantage of the judgment of the Hon'ble court. I have carefully gone through the judgment Mark B. It is true that out of several consolidated writ petitions, one was filed by the petitioner as well, but when the entire judgment is carefully examined, it becomes clear that forest department has not put forth its version before the Hon'ble Court. No undertaking was given by any officer or a standing counsel for the forest department. It is clear from the judgment Mark B that the submissions were made before the Hon'ble Court on behalf of the HPPWD, IPH and HPSEB and not on behalf of forest department. It was observed by the Hon'ble Court in the very first para of the judgment that all the petitioners have been working either in HPPWD/IPH or under HPSEB. There is no reference of those workmen who were working under the forest department. In para no.2 of the judgment, the Hon'ble Court has noted down the submissions of Dy. Advocate General and Standing counsel appearing for the Electricity Board regarding the abandonment of the job by the petitioners. Again, there is no such reference of the forest department in this para as well. In para no.4 of the judgment, the Hon'ble Court has again referred to HPPWD and IPH department and thereafter the Hon'ble Court after making discussions on Section 25-H of the Act was pleased to observe that, in case, the employer required additional manpower then such workman who have been retrenched will make proper representation for re-engagement and subject to verification of factual position regarding the retrenchment and the additional work etc, the department shall proceed further. It has been observed by the Hon'ble Court that the petitioners could take the recourse to the Industrial Disputes Act, if they required. Thus, the Hon'ble Court has nowhere held that the workman/petitioners belonging to forest department were retrenched. In-fact no plea on behalf of the forest department was made before the Hon'ble Court to justify the retrenchment of the petitioners. Such plea was raised only on behalf of HPPWD, IPH and HPSEB as has been clearly observed by the Hon'ble Court in para no's.1 and 2 of the judgment. In such situation, it was for the petitioner to have tendered on record certified copy of the writ petition filed by him coupled with the reply to such writ petition filed by the forest department. Had the forest department admitted the fact therein to the effect that the petitioner had worked with the department, the position would have been otherwise. Had the forest department also taken the plea of abandonment of the work by the workmen then also, this court could have presumed after perusal of the reply of the forest department that the petitioner has worked with the department prior to the year 1995 and for that reason the department has taken the plea of abandonment. Since no such document has been placed on record, the petitioner cannot get any benefit of the observations of the Hon'ble High Court of H.P. in writ petitions referred hereinabove. By way of this writ petition the Hon'ble Court has simply reserved the right of the petitioners to approach the industrial Tribunal or Labour Court and prove their cases. Thus, the petitioner can not take any assistance of the judgment of Hon'ble High Court of Himachal Pradesh.

12. The petitioner is proved to have not come to the court with clean hand from the averments made in the claim petition itself. Para No. 3 of the claim petition is very relevant to expose him. Initially, he has pleaded that his services were terminated in the year 2012 when he was orally ordered to not to come to his duties. He has further pleaded that he requested the respondent to engage him in services but when his requests were not adhered to he had to knock the door of the Hon'ble High Court by filing a writ petition 9366/2012 and the same was decided on 22.12.2012 alongwith other consolidated writ petitions with the directions to not to take the recourse of engagement of any fresh daily wager without duly notifying such vacancies. It has further been averred that thereafter the petitioner approached the respondent but nothing was done. Later on the petitioner moved an application for seeking amendment in the claim petition to replace the words **'in the year 2012 by the date 31.10.2015'**. The amendment was allowed and **the date of oral termination was replace by figures 31.10.2015 in place of the words 'in the year 2012'**. Now when this para 3 of the amended claim is read, it exposes the intentions of the petitioner fully. In case the services of the petitioners were not terminated in the year 2012, then why he had

approached the Hon'ble High Court in the year 2012 by way of writ petition No. 9366/2012? When the writ petition was decided on 22.12.2012 why the petitioner approached the respondent to engage his services when his services were terminated in the year 2015 and not in the year 2012? Thus the date of oral termination as disclosed by the petitioner to the labour office being 31.10.2015 and introduced in the pleadings by way of the amendment is an imaginary date when he had filed the writ petition against his alleged termination in the year 2012 before the Hon'ble High Court. As per para No. 3 of the petition, the writ petition was decided on 22.12.2012 and even thereafter the petitioner approached the respondent for his engagement, but nothing was done. Thus on the one hand the petitioner by filing the copy of the order passed by the Hon'ble High Court proves that he was out of work in the year 2012 and on the other hand, he pleads that his services were terminating on 31.10.2015. Both the facts can not co-exist. Thus the petitioner has not come to the court with clean hands and this fact also goes against him

13. Thus for the aforesaid discussions it is held that petitioner has failed to prove that he was initially engaged in the respondent department in the year 1982 and worked in continuity till the year 1990. The petitioner has further failed to prove that he has worked with breaks after the year 1990 till 31.10.2015. It is also not proved that his services were terminated orally by the respondent. Shri Subhash Chand Prashar (RW1) has joined the Division in the year 2019 and therefore, his statement is not very relevant as he has to speak from the records. Since no document pertaining to the engagement of the petitioner and paying the wages to him right from the year 1982 till 2015 has been prepared by the department. It is therefore, evident that the petitioner has not worked with the forest department at all. The forest department being a public office would not have nurtured any ill-will against the petitioner and released wages to him for so many years without their being a record maintained as per the rules. After all, public money was involved and even one rupee of the public money has to be accounted for. Statement of Shri Gere Ram is not proved to be corroborative as there is no record pertaining to the engagement of the petitioner and regarding his work from year 1982 to 2015. Shri Gere Ram can speak anything to support the case of the petitioner but his statement can not be believed as there is no document to support the same. The bills proved by the petitioner show that in the year 2015 he had worked on bill basis which is not the work done in the capacity of a daily wager. The reply to the demand notice also prove that the respondent has never admitted the claim of the petitioner and has been very specific that the petitioner has never worked in the department as a daily wage worker. So far as working on bill basis system is concerned, once the work done on the bills is accomplished, the relationship of employer and employee comes to an end and nothing survives. Issues no. 1 and 2 both are held in negative for aforesaid detailed reasons. So far as maintainability of reference claim petition is concerned, the same can not be disputed as once the reference has been received from the appropriate Government the same can be taken to its logical end by filing the claim petition in support of the same. Issue no.3 is held against the respondent. So far as issue no.4 is concerned, no evidence has been led on the same nor it is pointed out as to how the claim petition is infructuous and hence this issue decided against the respondent.

RELIEF

14. In view of my above discussions, the present claim petition merits dismissal and is accordingly dismissed. Parties are left to bear their own costs.

15. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 4th day of June, 2022.

Sd/-
(HANS RAJ)
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF Sh. HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref No. : 124/2017
Date of Institution : 21-06-2017
Date of Decision : 04-06-2022

Shri Govind Ram s/o Shri Hukam Chand, r/o Village Chhatar, P.O. Podakothi, Tehsil Sunder Nagar, District Mandi, H.P. *..Petitioner.*

Versus

The Divisional Forest Officer, Suket Forest Division, Sunder Nagar, District Mandi, H.P. *..Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri L.B. Sharma, Ld. Adv.
For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether termination of the services of Shri Govind Ram s/o Shri Hukam Chand, r/o Village Chhatar, P.O. Podakothi, Tehsil Sunder Nagar, District Mandi, H.P. *w.e.f.* 31-10-2015 (as alleged by the workman) by the Divisional Forest Officer, Suket Forest Division, Sunder Nagar, District Mandi, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/management?”

2. The petitioner has averred in his statement of claim that he was initially engaged as daily wage beldar in the year 1982 in Block Office Rohanda, Tehsil Nihri, Forest Range Jai Dei, District Mandi, H.P. and he discharged his duties with hard work honestly and efficiently and completed 240 days in each calendar year upto 1990 where after artificial breaks were given to him and he was deprived of right of being regularized against the post despite of the fact that the sufficient work was always available with the respondent. On 31.10.2015, the services of the petitioner were terminated by way of oral order and the workmen junior to him namely S/Shri Hari

Chand, Surender Kumar, Hem Chand, Jhabe Ram, Chaman Lal and Smt. Meena were retained. The services of all the above except Shri Hari Chand have been regularized as Sh. Hari Chand has unfortunately expired. It is submitted that the petitioner requested the respondent to engage his services but when request was not considered he filed a Writ Petition No.9366/2012 before the Hon'ble High Court of Himachal Pradesh which was decided on 22.12.2012 after consolidating the same with several other writ petitions and the respondent was directed to take recourse of engagement of daily wage only after notifying such vacancies. The petitioner was engaged intermittently since December 2014, but no muster roll has been issued to the petitioner and the payments have been made by him on bill basis. After the oral termination, the matter was raised before the Labour Commissioner Shimla for conciliation and when conciliation could not be effected the present reference was filed. On such averments, the petitioner has prayed that his oral termination dated 31.10.2015 be declared as wrong and the seniority list be got prepared *w.e.f.* 1982 and the seniority, continuity in service and back wages after condoning artificial breaks be also granted to him.

3. The respondent has resisted and contested the claim petition on the plea that the petitioner has not worked with the respondent even for a single day as a daily waged worker as alleged by him. It is further submitted that when the petitioner has not worked even for a single day in the aforesaid capacity, therefore, completion of 240 days in every year till 1990 as claimed, does not arise at all. Filing of writ petition is admitted but it is submitted that some directions were given in the same. It is submitted that since the petitioner has not worked as a daily wage worker with the respondent even for a single day, therefore, there was neither any question of retrenchment nor he is entitled for any relief as claimed, hence the petition be dismissed.

4. The petitioner has filed rejoinder and reaffirmed the averments so made in the claim petition and denied those made in the reply. He has also filed on record the copy of reply to the demand notice by the respondent dated 12.12.2016 and has said that the respondent claimed that the record of the department in fire till March, 2000 has been destroyed on account of the fire incident in the office which fact shows that the respondent intend to deny the benefit of the petitioner.

5. From the pleadings of the parties and the crux of the reference following issues were framed on 29.05.2018 for determination:—

1. Whether termination of services of the petitioner by the respondent during *w.e.f.* 31-10-2015 is illegal and unjustified as alleged? ..*OPP.*
2. If issue no.1 is proved in affirmative to what relief petitioner is entitled to? ..*OPP.*
3. Whether the present claim petition/reference is not maintainable in the present form as alleged? ..*OPR.*
4. Whether the claim petition has become infructuous as alleged? ..*OPR.*

Relief.

6. I have heard learned counsel for the petitioner and learned Dy. D.A. for the respondent at length and considered the material on record.

7. For the reasons recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	: Negative
Issue No. 2	: Negative
Issue No. 3	: No
Issue No. 4	: No
Relief	: Petition is dismissed as per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No.1 to 4

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. Initially the petitioner has pleaded in the claim petition that his services were terminated in the year 2012 but later on the pleadings were amended and date of termination was inserted as per the language of the reference. The reference is to the effect whether the services of the petitioner was terminated *w.e.f.* 31.10.2015 as alleged by the workman. The reference is always made by the appropriate Government when there is dispute of facts between the parties and the efforts for conciliation fails. Thus the facts are not admitted by the parties during conciliation proceedings, and it is for this reason that a reference is made to the court and it is thus for the parties to establish their respective cases by leading evidence before the court.

10. In the instant case, the petitioner has alleged that he had been working with the respondent department right from the year 1982, and the respondent has specifically denied this fact. The initial onus is thus upon the petitioner and he is therefore, supposed to discharge the same. It is well settled law that self serving statement of the petitioner is not sufficient to prove his case, when a serious question of fact is subject matter of the litigation. In the case in hand, the petitioner though claims that he has been working on daily wages with the respondent right from the year 1982 yet no person from his family, no relative and none from the respondent department or his native village has been examined by him in the witness-box to at least speak *prima-facie* regarding the fact he has seen the petitioner working with the respondent department since the year 1982. None has appeared before this court to even make a whisper of the fact that he had ever seen the petitioner going towards the office or the work-site of the respondent department at any point of time. The petitioner alleges that some persons junior to him have been retained. He has given name of those juniors in para no.3 of the petition. It is true that these junior person will not appear as witnesses before the court to support the case of the petitioner as the case of the petitioner is prejudicial to their interest yet the petitioner could have examined any other person who knew these named person to depose about the facts accordingly. None has been examined by the petitioner to prove the fact that he has been working with respondent since the year 1982 till the year 1990 in continuity and then with fictional breaks. Even if it is presumed for a while that the record in the office of the respondent was gutted to fire till the year 2000, there must be some counter record to the same. After all, the public funds are involved and payment to such workmen is made from the Government funds. The petitioner could have examined the senior officers of the respondent department asking them to produce the counter record but nothing has been done by him. Simply alleging that the petitioner was a daily wage worker since the year 1982 with the respondent is not sufficient without examining any person to corroborate the statement of the petitioner. A little attempt has been made to support the case by examining Shri Gere Ram as PW2 in the witness box. This witness claims that he has worked with the petitioner in the year 2008 and 2009. He claims that he has been working with the petitioner and others since the year 2008. The respondent on the other hand have been come up with the plea that no daily wage workman was engaged in the department after the year 2005 as there was a notification of the Government which prohibited such

an engagement. Such facts has been pleaded in para no.1 of the reply to demand notice Ext. PW4/A. When as per the respondent no person was engaged as daily wager after 2006 then it was again for the petitioner to name any person who was engaged as daily wage by the respondent after the year 2006. Shri Gere Ram although submits that he had been working since 2008 with the petitioner yet there is no record pertaining to him whether he was working as daily wager or bill basis. The vague statement of this Shri Gere Ram is also not sufficient to support the case of the petitioner when there is no official record pertaining to the engagement of the petitioner. If the record of the respondent was destroyed in the till the year 2000, the record after the year 2000 was very much available. In case the petitioner had worked with the respondent in the year 2007-08, some record could have been maintained with respect to the same, but no such record has been produced before the court even by the respondent. The respondent has come up with the plea that since the petitioner has not worked with the respondent at all, there was no question of maintaining his record. The forest department is a public office and it can not be believed that the services of the petitioner were engaged without there being any documentation. In case the wages were paid to the petitioner, a record could have been maintained by the department, which the petitioner could have summoned in the court. The petitioner has not taken any steps to cause the record of Sh. Ghare Ram and others pertaining to the year 2008 produced in the court so that the court could have examined the same and found the signatures of the petitioner in lieu of the payment received by him. It cannot, therefore, be said that Shri Gere Ram has been able to establish that the petitioner was engaged on daily wage basis by the respondent and has worked as such right from the year 1982. The statement of Sh. Gere Ram is, therefore, not sufficient to corroborate the statement of the petitioner. The petitioner has also examined Shri Shyam Lal as PW3, who was asked to produce the record. He has produced copies of bills Mark-B1 to Mark-B9 and has exhibited as Ext. PW3/A1 to Ext. PW3/A9. These bills show that petitioner has worked on bill basis and was not on daily wager and these bills pertain to the year 2015-2016. These bills prove that after the disposal of the writ petition before the Hon'ble High Court of Himachal Pradesh this person had worked with the respondent on bill basis.

11. The Learned counsel for the petitioner has drawn the attention of this court towards copy of judgment passed by our Hon'ble High Court in various consolidated writ petitions on 20.12.2012. Photocopy of the judgment has been placed on record as Mark-B. The Learned counsel for the petitioner has submitted that since it has been the plea of the respondent department before the Hon'ble High Court that these persons have abandoned their work themselves, therefore, it proves that the petitioner was engaged by the respondent department as a person can abandon the work after he was engaged. On the other hand, learned Deputy District Attorney for the respondent has argued that no such specific findings were given by the Hon'ble Court regarding the respondent department, and therefore, the petitioner can not have any advantage of the judgment of the Hon'ble court. I have carefully gone through the judgment Mark B. It is true that out of several consolidated writ petitions, one was filed by the petitioner as well, but when the entire judgment is carefully examined, it becomes clear that forest department has not put forth its version before the Hon'ble Court. No undertaking was given by any officer or a standing counsel for the forest department. It is clear from the judgment Mark B that the submissions were made before the Hon'ble Court on behalf of the HPPWD, IPH and HPSEB and not on behalf of forest department. It was observed by the Hon'ble Court in the very first para of the judgment that all the petitioners have been working either in HPPWD/IPH or under HPSEB. There is no reference of those workmen who were working under the forest department. In para no.2 of the judgment, the Hon'ble Court has noted down the submissions of Dy. Advocate General and Standing counsel appearing for the Electricity Board regarding the abandonment of the job by the petitioners. Again, there is no such reference of the forest department in this para as well. In para no.4 of the judgment, the Hon'ble Court has again referred to HPPWD and IPH department and thereafter the Hon'ble Court after making discussions on Section 25-H of the Act was pleased to observe that, in case, the employer required additional manpower then such workman who have been retrenched will make

proper representation for re-engagement and subject to verification of factual position regarding the retrenchment and the additional work etc, the department shall proceed further. It has been observed by the Hon'ble Court that the petitioners could take the recourse to the Industrial Disputes Act, if they required. Thus, the Hon'ble Court has nowhere held that the workman/petitioners belonging to forest department were retrenched. In-fact no plea on behalf of the forest department was made before the Hon'ble Court to justify the retrenchment of the petitioners. Such plea was raised only on behalf of HPPWD, IPH and HPSEB as has been clearly observed by the Hon'ble Court in para no's.1 and 2 of the judgment. In such situation, it was for the petitioner to have tendered on record certified copy of the writ petition filed by him coupled with the reply to such writ petition filed by the forest department. Had the forest department admitted the fact therein to the effect that the petitioner had worked with the department, the position would have been otherwise. Had the forest department also taken the plea of abandonment of the work by the workmen then also, this court could have presumed after perusal of the reply of the forest department that the petitioner has worked with the department prior to the year 1995 and for that reason the department has taken the plea of abandonment. Since no such document has been placed on record, the petitioner cannot get any benefit of the observations of the Hon'ble High Court of H.P. in writ petitions referred hereinabove. By way of this writ petition the Hon'ble Court has simply reserved the right of the petitioners to approach the industrial Tribunal or Labour Court and prove their cases. Thus, the petitioner can not take any assistance of the judgment of Hon'ble High Court of Himachal Pradesh.

12. The petitioner is proved to have not come to the court with clean hand from the averments made in the claim petition itself. Para No. 3 of the claim petition is very relevant to expose him. Initially, he has pleaded that his services were terminated in the year 2012 when he was orally ordered to not to come to his duties. He has further pleaded that he requested the respondent to engage him in services but when his requests were not adhered to he had to knock the door of the Hon'ble High Court by filing a writ petition 9366/2012 and the same was decided on 22.12.2012 alongwith other consolidated writ petitions with the directions to not to take the recourse of engagement of any fresh daily wager without duly notifying such vacancies. It has further been averred that thereafter the petitioner approached the respondent but nothing was done. Later on the petitioner moved an application for seeking amendment in the claim petition to replace the words **'in the year 2012 by the date 31.10.2015'**. The amendment was allowed and **the date of oral termination was replace by figures 31.10.2015 in place of the words 'in the year 2012'**. Now when this para 3 of the amended claim is read, it exposes the intentions of the petitioner fully. In case the services of the petitioners were not terminated in the year 2012, then why he had approached the Hon'ble High Court in the year 2012 by way of writ petition No. 9366/2012? When the writ petition was decided on 22.12.2012 why the petitioner approached the respondent to engage his services when his services were terminated in the year 2015 and not in the year 2012? Thus the date of oral termination as disclosed by the petitioner to the labour office being 31.10.2015 and introduced in the pleadings by way of the amendment is an imaginary date when he had filed the writ petition against his alleged termination in the year 2012 before the Hon'ble High Court. As per para No. 3 of the petition, the writ petition was decided on 22.12.2012 and even thereafter the petitioner approached the respondent for his engagement, but nothing was done. Thus on the one hand the petitioner by filing the copy of the order passed by the Hon'ble High Court proves that he was out of work in the year 2012 and on the other hand, he pleads that his services were terminating on 31.10.2015. Both the facts can not co-exist. Thus the petitioner has not come to the court with clean hands and this fact also goes against him.

13. Thus for the aforesaid discussions it is held that petitioner has failed to prove that he was initially engaged in the respondent department in the year 1982 and worked in continuity till the year 1990. The petitioner has further failed to prove that he has worked with breaks after the year 1990 till 31.10.2015. It is also not proved that his services were terminated orally by the

respondent. Shri Subhash Chand Prashar (RW1) has joined the Division in the year 2019 and therefore, his statement is not very relevant as he has to speak from the records. Since no document pertaining to the engagement of the petitioner and paying the wages to him right from the year 1982 till 2015 has been prepared by the department. It is therefore, evident that the petitioner has not worked with the forest department at all. The forest department being a public office would not have nurtured any ill-will against the petitioner and released wages to him for so many years without their being a record maintained as per the rules. After all, public money was involved and even one rupee of the public money has to be accounted for. Statement of Shri Gere Ram is not proved to be corroborative as there is no record pertaining to the engagement of the petitioner and regarding his work from year 1982 to 2015. Shri Gere Ram can speak anything to support the case of the petitioner but his statement can not be believed as there is no document to support the same. The bills proved by the petitioner show that in the year 2015 he had worked on bill basis which is not the work done in the capacity of a daily wager. The reply to the demand notice also prove that the respondent has never admitted the claim of the petitioner and has been very specific that the petitioner has never worked in the department as a daily wage worker. So far as working on bill basis system is concerned, once the work done on the bills is accomplished, the relationship of employer and employee comes to an end and nothing survives. Issues no. 1 and 2 both are held in negative for aforesaid detailed reasons. So far as maintainability of reference claim petition is concerned, the same can not be disputed as once the reference has been received from the appropriate Government the same can be taken to its logical end by filing the claim petition in support of the same. Issue no.3 is held against the respondent. So far as issue no.4 is concerned, no evidence has been led on the same nor it is pointed out as to how the claim petition is infructuous and hence this issue decided against the respondent.

RELIEF

14. In view of my above discussions, the present claim petition merits dismissal and is accordingly dismissed. Parties are left to bear their own costs.

15. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 4th day of June, 2022.

Sd/-
(HANS RAJ)
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF Sh. HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)
(CAMP AT BILASPUR)**

Ref No.	: 468/2016
Date of Institution	: 20-08-2016
Date of Decision	: 09-06-2022

Shri Sada Ram s/o Shri Mansha Ram, r/o Village Tundwin, P.O. Tantha, Tehsil Ghumarwin, District Mandi, H.P. ..Petitioner.

Versus

The Additional Superintending Engineer, Electrical Division, H.P.S.E.B Ghumarwin,
District Bilaspur, H.P. ..Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Petitioner in person with
Sh. S.S. Sippy, Ld. AR
For the Respondent : Sh. Kuldeep Lakhanpal, Ld.
(Vice Counsel)

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether alleged termination of the services of Shri Sada Ram s/o Shri Mansha Ram, r/o Village Tundwin, P.O. Tantha, Tehsil Ghumarwin, District Bilaspur, H.P. *w.e.f.* 01-04-1988 by the Additional Superintending Engineer, Electrical Division, H.P.S.E.B. Ghumarwin, District Bilaspur, H.P. without complying with the provisions of the Industrial Disputes Act, 1947, as alleged by workman, is legal and justified; whereas he has raised the industrial dispute *vide* demand notice dated 26-10-2014 after lapse of more than 26 years. If not, keeping in view delay of more than 26 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer?”

2. The petitioner has averred in his statement of claim that he was initially engaged as daily wage beldar *w.e.f.* 29.11.1986 and had worked continuously till 31.03.1988. It is further averred that the respondent has issued ten days notice to the petitioner and terminated the services of the petitioner without any fault on 01.4.1988. No retrenchment compensation was paid. The petitioner verbally made several requests to the respondent in between 1990 to 2013 and prayed for his reinstatement but without success. The respondent is alleged to have appointed three new T-mate and helper in the year 1988. It is averred that the respondent had engaged fresh hands in the years 2000, 2001, 2007, 2008, 2012 and 2014 but the petitioner was not called. It is further averred that the respondent has violated the provisions of Sections 25-G, 25-H and 25-F of the Act as well as also violated the principle of 'last come first go'. The petitioner has claimed that he is an unemployed person and has no regular employment. The petitioner has thus prayed for his reinstatement with all the consequential benefits.

3. The respondent has resisted and contested the petition on the plea maintainability and limitation. It is stated that the petitioner has not come to the court with clean hands and has concealed the material facts from this court. He is said to have no cause of action to file the petition. On merits, it is submitted that the records till 21.1.1998 including the record pertaining to the petitioner had been destroyed in the fire as per letter No.182024/EA-1/2009-102633-46, dated 22.6.2009. It is averred that the petitioner was engaged as a casual labourer for a particular work with the respondent and he has not completed 240 days continuous service in any calendar year. The respondent claims that it has not violated any of the provisions of the Act and has prayed for dismissal of the claim petition.

4. The petitioner has filed rejoinder and reaffirmed the averments so made in the claim petition and denied those made in the reply.

5. Issues were settled petitioner was directed to lead evidence. Today the file is listed for leading evidence. The petitioner accompanied with learned Authorized Representative has submitted that he does not want to pursue the reference and the reference, may disposed of accordingly. The statement has been recorded separately and placed on the file.

6. It is thus a situation whether no evidence has been led in support of the averments made in the claim petition and thus the contents of the claim petition are not established. When there is no evidence in support of the averments made in the claim petition, therefore the claim petition cannot succeed and the same has to be adjudged against the petitioner. It may be stated here that the pleadings without evidence of no value.

7. When there is no evidence in support of the claim petition, the petition is therefore, dismissed and the claim petition is liable to be answered in negative. Parties are left to bear their own costs.

8. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 9th day of June, 2022.

Announced:
09.06.2022

Sd/-
(HANS RAJ)
Presiding Judge,
Labour Court-cum-Industrial,
Kangra at Dharamshala, H.P.
(Camp at Bilaspur).

IN THE COURT OF Sh. HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref No. : 284/2016
Date of Institution : 04-05-2016
Date of Decision : 14-06-2022

Shri Bachnu Ram s/o Late Shri Asha Ram, through Shri Sunder Singh Sippy, General Secretary and Authorized Representative Forest and Forest Workers Union, r/o House No.100/3, Roura Sector-2, District Bilaspur, H.P. *..Petitioner.*

Versus

The Divisional Forest Officer, Bilaspur Forest Division, District Bilaspur, H.P. *...Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri S.S. Sippy, Ld. AR
For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether non-regularization of the services of Shri Bachnu Ram s/o Late Shri Asha Ram through Shri Sunder Singh Sippy, General Secretary and Authorized Representative Forest and Forest Workers Union, r/o House No.100/3, Roura Sector-2, District Bilaspur, H.P. during year, 1999 and non implementation of award of Ld. Industrial Tribunal-*cum*-Labour Court dated 28-04-2010 by the Divisional Forest Officer, Forest Division Bilaspur, District Bilaspur, H.P., is legal and justified? If not, to what relief, service benefits above workman is entitled to from the above employer?”

2. The petitioner has pleaded in his statement of claim that he was engaged as daily waged beldar on 01.4.1996 in Forest Range (Wildlife) Shree Nainadevi ji and he was working with Forest Division Bilaspur. His services were terminated *w.e.f.* 21.2.2002 and he had to approach the Labour Court and the matter was decided on 28.4.2010. According to the petitioner, the workmen junior to him S/Shri Bhajan Singh, Joginder Singh, Ramlal, Sukhnand, Chhota Ram, Pritam Singh, Hemraj, Naranjan Singh and Mohinder Singh have been regularized in the years 2007 and 2009, whereas, his services were still not regularized and such an act and conduct on the part of the respondent amounted to unfair labour practices. According to the petitioner, his services be regularized as per his turn on completion of eight years services in accordance with the Government policies/ notification.

3. The respondent has resisted and contested the petition in a vague manner without specifying the things clearly. It is submitted that the workers are to be regularized as per the Government policy and mater pertaining to the petitioner has also been sent to the Government on 09.04.2018. It is submitted that petition be dismissed.

4. The petitioner has filed rejoinder wherein he has re-affirmed the averments made in the petition and denied those made in the reply.

5. On the pleadings of the parties, following issues have been framed on 01.8.2018:—

1. Whether non-regularization of service of the petitioner during year, 1999 and non implementation of award of this court dated 28-04-2010 by respondent is/was legal and justified as alleged? ..*OPP.*
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? ..*OPP.*
3. Whether the claim petition is not maintainable in the present form as alleged? ..*OPR.*

Relief.

6. I have heard learned counsel for the petitioner as well as learned Deputy District Attorney for the respondent at length and considered the material on record.

7. For the reasons recorded hereinafter, my findings on the aforesaid issues are as under:—

Issue No.1 : Negative

Issue No.2 : Negative

Issue No.3 : No

Relief : Petition is **dismissed** as per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No.1 to 3

8. All these issues are taken up together for the sake of convenience and to avoid repetition of evidence, however separate findings shall be recorded on every issue at the end.

9. When the reference received by this court is carefully examined, it becomes clear that the appropriate Government has sought adjudication on two points. Firstly whether the Award of the Tribunal dated 28.04.2010 has been properly implemented, and secondly, whether non-regularization of the services of the petitioner during the year 1999 is legal and justified. Both these points are crystal clear from the language employed in the reference.

10. The first question to be considered by this court is whether the services of the petitioner should have been regularized during the year 1999? The petitioner has neither filed nor proved on record any policy which provided for regularization of the services of a daily wager within the span of three years. No mandays chart of the petitioner has been placed on the record pertaining to the period in between his initial engagement and the year 1999. If the petitioner was engaged in the year 1996 as pleaded by him, there was no question of regularizing his services in the year 1999 as claimed by him as there is no such policy on the record to show that a workman can be regularized within three years of his initial engagement. No mandays chart has been placed and proved on the record to show that the petitioner has worked for minimum 240 days each in these three calendar years.

11. The petitioner has placed on record copy of the order passed by the Hon'ble High Court of Himachal Pradesh in CWP No.4999/2010 decided on 25.8.2010 as Ext. PW1/B. This order was passed in writ petition filed by Shri Som Nath against the State & Ors. There is reference of scheme by the Government of Himachal Pradesh whereby daily wage/contingent workers were to be regularized within a period of eight years of their engagement. In this case, the Hon'ble High Court had issued directions to the second respondent to examine the case of the petitioner and take appropriate action in accordance with law. The petitioner has placed reliance on this order to show that his case was liable to be considered for regularization within the first eight years. When the petitioner has worked only for three year in between 1996 to 1999, how he can be given the benefit of this policy. Thus, the case of the petitioner is not covered under this policy for the reason that he had never worked for 240 days in every calendar year for eight years till 1999.

12. When the pleadings and evidence led by the petitioner are examined, the same are not in consonance with the reference and it is submitted that his case be considered in accordance with the judgment passed by the Hon'ble Court. The grievance of the petitioner has been further to the effect that the workmen junior to him namely Bhajan Singh etc. were regularized in the years 2007 and 2009. Had the reference been to the effect that whether the case of the petitioner was liable to be treated for regularization the position was otherwise. The reference received from the appropriate Government is otherwise. The petitioner has appears as PW1 in the witness box and he has stated in his cross-examination that his services were regularized in June, 2019. It thus very much clear that he has been regularized in the year 2019. Since the reference carries the specific period of 1999 for the purpose of regularization, the reference has to be answered specifically. As aforesaid the petitioner has never worked eight years till 1999, therefore, there was no question of considering his case for regularization *w.e.f.* the year 1999.

13. So far as the second part of the reference is concerned whether the award dated 28.4.2010 has not been implemented, the same is also liable to answer in negative for the simple reason that the award dated 28.4.2010 in Reference No. 82/2006 shows that the retrenchment of the petitioner was held as wrong and he was not given continuity of service with 50% back wages. The respondent was directed to re-engaging the petitioner within the period of 90 days from the date of the award. It is thus clear that the petitioner was re-engaged in the year 2010 itself and he had worked continuously thereafter. It is also clear from the case of the petitioner himself that he has been regularized w.e.f. June, 2019. The respondent has examined Shri Awani Bhushan Rai as RW1 in the witness box who has tendered his affidavit Ext.RW1/A, copy of notification dated 7.6.2013 Ext.RW1/B and letter dated 9.4.2018 Ext. RW1/C. As per the letter dated 9.4.2018 Ext. RW1/C vide which the case of the petitioner has been forwarded for regularization. It is submitted by the petitioner on oath that his services stand already regularized in the year 2019. In-fact the reference is not with respect to the regularization of the petitioner in accordance to the Award dated 28.04.2010. The Award is in-fact regarding the non-implementation of the Award. The Award nowhere speak of regularization of the petitioner, and therefore, the court cannot proceed to examine the regularization part of the relief. The award simply speak of the re-engagement of the petitioner and petitioner was re-engaged in the year 2010 itself. The Award thus stands implemented. The only question that survives in this case is whether the petitioner should have been regularized in the year 2010 itself or not? Such reference has not been made by the appropriate Government and therefore, no findings can be given on that aspect. The petitioner is always at liberty to approach the appropriate Government with such a dispute and, in case, his prayer is not favourably considered then he has other remedies available under the law. Since no reference has been made to this court with regard to regularization of the petitioner on 28.4.2010, the court cannot, therefore, travel beyond the scope of the reference.

14. For the aforesaid reasons, issues no.1 and 2 both are held against the petitioner, whereas, the issue no.3 is held against the respondent and petition is held as maintainable as there is a reference by the appropriate Government.

RELIEF

15. In view of my above discussions, the present claim petition merits dismissal and is accordingly dismissed. Parties are left to bear their own costs.

16. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 14th day of June, 2022.

Sd/-
(HANS RAJ)
*Labour Court-cum-Industrial,
Tribunal, Kangra at Dharamshala, H.P.*

IN THE COURT OF Sh. HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref No. : 283/2016
Date of Institution : 04-05-2016
Date of Decision : 14-06-2022

Shri Lala Ram s/o Late Shri Labh Singh, through Shri Sunder Singh Sippy, General Secretary and Authorized Representative Forest and Forest Workers Union, r/o House No.100/3, Roura Sector-2, District Bilaspur, H.P. ..Petitioner.

Versus

The Divisional Forest Officer, Bilaspur Forest Division, District Bilaspur, H.P. ..Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri S.S. Sippy, Ld. AR
For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether non-regularization of the services of Shri Lala Ram s/o Late Shri Labh Singh through Shri Sunder Singh Sippy, General Secretary and Authorized Representative Forest and Forest Workers Union, r/o House No.100/3, Roura Sector-2, District Bilaspur, H.P. during year, 1996 and non implementation of award of Ld. Industrial Tribunal-cum-Labour Court dated 16-01-2010 by the Divisional Forest Officer, Forest Division Bilaspur, District Bilaspur, H.P., is legal and justified? If not, to what relief, service benefits above workman is entitled to from the above employer?”

2. The petitioner has pleaded in his statement of claim that he was engaged as daily waged beldar on 01.3.1989 in Forest Range (Wildlife) Shree Nainadevi ji and presently he was working with Forest Division Bilaspur. His services were terminated *w.e.f.* 01.4.2002 and he had to approach the Labour Court and the matter was decided on 16.01.2010. According to the petitioner workmen junior to him S/Shri Bhajan Singh, Joginder Singh, Ramlal, Sukhnand, Chhota Ram, Pritam Singh, Hemraj, Naranjan Singh and Mohinder Singh have been regularized in the years 2007, 2009, 2012 and 2013 whereas, his services were still not regularized and such an act and conduct on the part of the respondent amounted to unfair labour practices. According to the petitioner, his services be regularized as per his turn on completion of eight years services in accordance with the Government policies/ notification.

3. The respondent has resisted and contested the petition in a vague manner without specifying the things clearly. It is submitted that the workers are to be regularized as per the Government policy and mater pertaining to the petitioner has also been sent to the Government on 09.04.2018. It is submitted that petition be dismissed.

4. The petitioner has filed rejoinder wherein he has re-affirmed the averments made in the petition and denied those made in the reply.

5. On the pleadings of the parties, following issues have been framed on 01.8.2018:—

1. Whether non-regularization of service of the petitioner during year, 1996 and non implementation of award of this court dated 16-01-2010 by respondent is/was legal and justified as alleged? ..OPP.

2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? ..*OPP*.

3. Whether the claim petition is not maintainable in the present form as alleged? ..*OPR*.
Relief.

6. I have heard learned counsel for the petitioner as well as learned Deputy District Attorney for the respondent at length and considered the material on record.

7. For the reasons recorded hereinafter, my findings on the aforesaid issues are as under:—

Issue No. 1 : Negative

Issue No. 2 : Negative

Issue No. 3 : No

Relief : Petition is **dismissed** as per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No.1 to 3

8. All these issues are taken up together for the sake of convenience and to avoid repetition of evidence, however separate findings shall be recorded on every issue at the end.

9. When the reference received by this court is carefully examined, it becomes clear that the appropriate Government has sought adjudication on two points. Firstly whether the Award of the Tribunal dated 16.01.2010 has been properly implemented, and secondly, whether non-regularization of the services of the petitioner during the year 1996 is legal and justified. Both these points are crystal clear from the language employed in the reference.

10. The first question to be considered by this court is whether the services of the petitioner should have been regularized during the year 1996? The petitioner has neither filed nor proved on record any policy which provided for regularization of the services of a daily wager within the span of eight years. No mandays chart of the petitioner has been placed on the record pertaining to the period in between his initial engagement and the year 1996. The petitioner has placed on record proceedings of the Departmental Screening Committee held on 31.3.2017 as Ext. PA. The careful perusal of this document would show that in the year 1989 the petitioner had worked for 11 days, in the year 1990 for 20 days, 0 days in 1991, 146 days in 1992, 51 days in 1993, 25 days in 1994, 65 days in 1995 and 84 days in 1996. Even in the year 1997 petitioner had worked for 41 days, 0 days in 1998, 157 days in 1999, 142 days in 2000, 135 days in 2001, 19 days in 2002, 0 days in 2003. Thus, it is clear that in between 1989 to 1996 the petitioner has never worked for minimum 240 days required in order to consider a workman for regularization. When the petitioner has never worked for 240 days in every calendar year during the aforesaid period there was no question of considering his case for regularization. His services could not have been regularized merely for the reason that he had completed eight years while working as a daily wager. Completion of minimum 240 days in every such year is the first and foremost requirement which was never fulfilled by him. It therefore, cannot be said that the case of the petitioner should have been considered for regularization in the year 1996 itself as he has never worked for minimum 240 days in every year. The petitioner has placed on record copy of the order passed by the Hon'ble

High Court of Himachal Pradesh in CWP No.4999/2010 decided on 25.8.2010 as Ext. PW1/B. This order was passed in writ petition filed by Shri Som Nath against the State & Ors. There is reference of scheme by the Government of Himachal Pradesh whereby daily wage/contingent workers were to be regularized within a period of eight years of their engagement. In this case, the Hon'ble High Court had issued directions to the second respondent to examine the case of the petitioner and take appropriate action in accordance with law. The petitioner has placed reliance of this order in order to show that his case was liable to be considered for regularization within the first eight years that would have ended in the year 1996. It is very much clear from the extract of Government order referred in the aforesaid judgment of Hon'ble Court that only those persons could be considered for regularization who had completed eight years of continuous service with minimum of 240 days in a calendar year. Thus, the case of the petitioner is not covered under this policy for the reason that he had never worked for 240 days in every calendar year till 1996. When the pleadings and evidence led by the petitioner are examined, the same are not in consonance with the reference and it is submitted that his case be considered in accordance with the judgment passed by the Hon'ble Court. The grievance of the petitioner has been further to the effect that the workmen junior to him namely Bhajan Singh etc. were regularized in the years 2007, 2009 and 2012 to 2016. Had the reference been to the effect that whether the case of the petitioner was liable to be treated for regularization the position was otherwise. The reference received from the appropriate Government is otherwise. The petitioner has appears as PW1 in the witness box and he has stated in his cross-examination that his services were regularized in June, 2019. It thus very much clear that he has been regularized in the year 2019. Since the reference carries the specific period of 1996 for the purpose of regularization, the reference has to be answered specifically. As aforesaid the petitioner has never worked for 240 minimum days in the years in between 1989 to 1996, therefore, there was no question of considering his case for regularization *w.e.f.* the year 1996.

11. So far as the second part of the reference is concerned whether the award dated 16.01.2010 has not been implemented, the same is also liable to answer in negative for the simple reason that the award dated 16.01.2010 in Reference no.67/2006 shows that the retrenchment of the petitioner was held as wrong and he was given continuity of service *w.e.f.* March, without back wages and compensation. The respondent was directed to re-engaging the petitioner within the period of 90 days from the date of the award. It is clear from Ext. PA that the petitioner has worked in the year 2010 for 284 days, 361 days in 2011 and upto October, 2017 for more than 300 days in every year. It is thus clear that the petitioner was re-engaged in the year 2010 itself and he had worked continuously thereafter. It is also clear from the case of the petitioner himself that he has been regularized *w.e.f.* June, 2019. The respondent has examined Shri Awani Bhushan Rai as RW1 in the witness box who has tendered his affidavit Ext.RW1/A, copy of notification dated 7.6.2013 Ext.RW1/B and letter dated 9.4.2018 Ext. RW1/C. As per the letter dated 9.4.2018 Ext. RW1/C the case of the petitioner has been forwarded for regularization. It is submitted by the petitioner on oath that his services stand already regularized in the year 2019. In-fact the reference is not with respect to the regularization of the petitioner in accordance to the Award dated 16.01.2010. The Award is in-fact regarding the non-implementation of the Award. The Award nowhere speak of regularization of the petitioner, and therefore, the court cannot proceed to examine the regularization part of the relief. The award simply speak of the re-engagement of the petitioner and petitioner was re-engaged in the year 2010 itself. The Award thus stands implemented. The only question that survives in this case is whether the petitioner should have been regularized in the year 2010 itself as he was given continuity of service by the Award *w.e.f.* March, 2002 or not? Such reference has not been made by the appropriate Government and therefore, no findings can be given on that aspect. The petitioner is always at liberty to approach the appropriate Government with such a dispute and, in case, his prayer is not favourably considered then he has other remedies available under the law. Since no reference has been made to this court with regard to regularization of the petitioner on 16.01.2010, the court cannot, therefore, travel beyond the scope of the reference.

12. For the aforesaid reasons, issues no.1 and 2 both are held against the petitioner, whereas, the issue no.3 is held against the respondent and petition is held as maintainable as there is a reference by the appropriate Government.

RELIEF

13. In view of my above discussions, the present claim petition merits dismissal and is accordingly dismissed. Parties are left to bear their own costs.

14. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 14th day of June, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF Sh. HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref No. : 724/2016
Date of Institution : 06-10-2016
Date of Decision : 15-06-2022

Shri Ranjeet Singh s/o Shri Samsher Singh, r/o VPO Raipur Marwari, Tehsil Amb, District Una, H.P. *..Petitioner.*

Versus

The Managing Director/Employer, M/S Tigaksha Metallica Private Limited, Plot No. 16, Ramnagar, Industrial Area Gagret, District Una, H.P. *..Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : None for the petitioners

For the Respondent : Sh. N.L. Kaundal, Ld. AR

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether termination of the services of Shri Ranjeet Singh, s/o Shri Shamsheer Singh, r/o V.P.O. Raipur Marwari, Tehsil Amb, District Una, H.P. from July, 2013 by the Managing Director/Employer, M/s Tigaksha Metalics Private Limited, Plot No.116, Ramnagar, Industrial Area Gagret, District Una, H.P. without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. It is stated in the claim petition that deceased Ranjeet Singh was unlawfully terminated by the respondent in the year 2013 and the industrial dispute was raised but the dispute could not be resolved hence the reference was made in the year 2016. It is further submitted that in the meanwhile the petitioner expired and now the petition is being filed by his legal heirs on the averments that his termination was in violation of Section 25-F (a) (b) of the Act and junior to the deceased petitioner are retained and thus violation of Section 25-G was also caused. The legal heirs of the deceased petitioner have prayed that the reinstatement of the deceased petitioner be ordered symbolically and all the consequential benefits be paid to the deceased petitioners.

3. As the matter proceeded further it was revealed that two children of the deceased petitioner were minor and therefore application under Order 32 Rule 7 of CPC was to be filed and the application was not filed. Now the wife of the deceased, who is mother of these minor children and has no adverse interest to the minor children has forwarded an application to this court stating therein that she is not interested in the matter as the matter has been settled between her and the respondent and copy of agreement entered between her and the respondent has also been sent to this court. No doubt the two legal heirs of deceased petitioner are minor yet mother is their natural guardian and has no interest adverse to the children. When the mother has entered into compromise with the respondent and received compensation on their behalf therefore, there is no requirement of bringing the minor children also on the record as legal representatives of the deceased petitioner as their mother is alive and she is their natural guardian. Since she had entered into compromise with the respondent in the interest of her children and the petitioner who has already died cannot be ordered to be reinstated after his death. The only relief available was to claim compensation which has been settled between the parties and paid and received. In such circumstances the reference is disposed of holding that the compromise has taken place between the parties and Rs.15,000/- has been paid and received on behalf of the legal heirs of the deceased petitioner.

4. Thus, in the aforesaid background, the reference is answered in negative. Parties are left to bear their costs.

5. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 15th day of June, 2022.

Announced:
15.06.2022

Sd/-
(HANS RAJ)
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF Sh. HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref No. : 767/2016
Date of Institution : 19-11-2016
Date of Decision : 15-06-2022

Shri Surinder Kumar s/o Shri Babu Ram, r/o Village Batka, P.O. Kopra, Tehsil Nurpur,
District Kangra, H.P. ..Petitioner.

Versus

The Executive Engineer, Jawali Division, HPPWD Jawali, District Kangra, H.P. ..Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. Rajat Chaudhary, Ld. Adv.

For the Respondent(s) : Sh. Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether alleged termination of services of Shri Surinder Kumar s/o Shri Babu Ram, r/o Village Batka, P.O. Kopra, Tehsil Nurpur, District Kangra, H.P. *w.e.f.* 01-06-1990 by the Executive Engineer, H.P.P.W.D. Jawali, District Kangra, H.P., who had worked on daily wages as beldar and has raised his industrial dispute after about 21 years vide demand notice dated nil received in the office on 13-06-2011, without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, keeping in view delay of about 21 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. The petitioner has stated in his statement of claim that he was engaged on daily wage basis in the year 1986 by the respondents and retrenched in the year 1990 by retaining the juniors and thus there is violation of not only Section 25-F but Section 25-G and 25-N of the Act as he had completed 240 days in the preceding twelve calendar months before his termination. He has named as many as 24 persons who were also disengaged and then re-engaged, whereas, he was neither re-engaged nor called for the work despite of the fact that work was very much available with the department. On such averments, the petitioner has submitted that his service be re-engaged with all consequential benefits.

3. Shri Rajat Chaudhary, learned Counsel for the petitioner on 15.06.2022 submitted that the petitioner was not willing to pursue the reference and the same be disposed off accordingly. Statement of the petitioner has been recorded separately. Thus no evidence has been led by the petitioner in support of the allegations leveled by him. When there no evidence in support of the averments made in the petition, the petition fails and the reference has to be answered in negative.

4. In view of my above discussions, claim petition merits dismissal and is accordingly dismissed as the petitioner has failed to prove the allegation by leading evidence. Thus, in the aforesaid background, the reference is answered in negative. Parties are left to bear their costs.

5. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 15th day of June, 2022.

Announced:
15.06.2022

Sd/-
(HANS RAJ)
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF Sh. HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 780/2016
Date of Institution : 19-11-2016
Date of Decision : 15-06-2022

Shri Puran Singh s/o Shri Sahib Singh, r/o Village and P.O. Haddal, Tehsil Nurpur, District Kangra, H.P. *..Petitioner.*

Versus

1. The Executive Engineer, Nurpur Division, HPPWD Nurpur, District Kangra, H.P.
2. The Executive Engineer, Jawali Division, HPPWD Jawali, District Kangra, H.P. *..Respondents.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. Rajat Chaudhary, Ld. Adv.

For the Respondent(s) : Sh. Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether the alleged termination of services of Shri Puran Singh, s/o Shri Sahib Singh r/o Village and P.O. Haddal, Tehsil Nurpur, District Kangra, H.P. during 1990 by (i) The Executive Engineer, Nurpur Division, HPPWD, Nurpur, District Kangra, H.P. (ii) The

Executive Engineer, Jawali Division, HPPWD, Jawali, District Kangra, H.P., who had worked on daily wages basis as beldar and has raised his industrial dispute after about 21 years vide demand notice dated nil received in the office of Labour Officer Dharamshala on 13-06-2011 without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, keeping in view of delay of about 21 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employers/management?"

2. The petitioner has stated in his statement of claim that he was engaged on daily wage basis in the year 1986 by the respondents and retrenched in the year 1990 by retaining the juniors and thus there is violation of not only Section 25-F but Section 25-G and 25-N of the Act as he had completed 240 days in the preceding twelve calendar months before his termination. He has named as many as 24 persons who were also disengaged then re-engaged whereas he was neither re-engaged nor called for the work despite of the fact that work was very much available with the department. On such averments the petitioner has submitted that his service be re-engaged with all consequential benefits.

3. Shri Rajat Chaudahry, learned Counsel for the petitioner on 15.06.2022 submitted that the petitioner was not willing to pursue the reference and the same be disposed off accordingly. Statement of the petitioner has been recorded separately. Thus no evidence has been led by the petitioner in support of the allegations leveled by him. When there no evidence in support of the averments made in the petition, the petition fails and the reference has to be answered in negative.

4. In view of my above discussions, claim petition merits dismissal and is accordingly dismissed as the petitioner has failed to prove the allegation by leading evidence. Thus, in the aforesaid background, the reference is answered in negative. Parties are left to bear their costs.

5. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 15th day of June, 2022.

Announced:
15.06.2022

Sd/-
(HANS RAJ)
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF Sh. HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 153/2015
Date of Institution : 04-04-2015
Date of Decision : 16-06-2022

Smt. Sharda, Part-time Sweeper, through Shri Sunder Singh Sippy, House No.100/3, Roda Sector, Bilaspur, H.P. ...Petitioner.

Versus

1. The Managing Director, Himachal Pradesh State Handloom and Handicraft Corporation Shimla.

2. H.P. State Handloom and Handicraft Corporation Branch, Bilaspur, H.P.

...Respondents.

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri S.S. Sippy, Ld. AR

For the Respondent(s) : Shri B.S. Verma, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether action of the employer *i.e.* the Managing Director, Himachal Pradesh State Handloom and Handicraft Corporation Shimla, H.P. State Handloom and Handicraft Corporation Branch, Bilaspur, H.P. to not convert part-time services of Smt. Sharda, Part-time sweeper, through Shri Sunder Singh Sippy, House No.100/3, Roda Sector, Bilaspur, H.P. to full time services/daily wages on completion of 10 years of continuous service as per Government Policy alongwith subsequent service benefits in service, is legal and justified? If not, what amount of difference of wages, salary, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. The case of the petitioner as is evident of statement of claim is that she was engaged as part-time sweeper in the year 1991 and she had been working continuously with the respondent no.2 for 8 hours every day but she was paid for 4 hours every day. The further case of the petitioner to the effect that there were 15 workmen with the respondent no.2 out of whom 8 workmen were daily wage and they have been regularized by the orders of the Tribunal. The petitioner also raised the issue regarding conversion of her part-time work into daily wage and then regularization of her services with the respondent *vide* demand notice dated 21.9.2010 but nothing was done despite of the fact that Hon'ble Supreme Court in Mool Raj Upadhyaya *vs.* State of H.P. & Ors. had specifically held that services of such workmen could be regularized. On such averments, the petitioner has prayed for that her services be ordered to be converted into full time from part-time and thereafter her services be regularized as per the government policies.

3. The respondent has resisted and contested the petition on the plea that the petitioner has no cause of action and the petition is also not maintainable. The respondent had admitted that she had joined as part-time sweeper with them *w.e.f.* 17.01.1992 till date. It is further case of the respondents that she had been working for 4 hours and not for 8 hours and payment has been made to her accordingly. As per the respondents, there are six workers engaged on daily wages with the respondent no. 2 and their services have been regularized and the petitioner is a part-time sweeper and therefore, her case not covered under the Mool Raj Upadhyaya's case. The respondents have explained that so far as the notification of H.P. Government with respect to terms and conditions of part-time class-IV employees is concerned, the Autonomous Boards, Corporation and the Universities are bound not to adopt the notification *mutatis mutandis* but same was to be followed depending upon their financial position. It is further explained that the respondent corporation is in

financial losses to the tune of Rs.16,25,22,478/- as on 31.3.2014 and total liabilities of the corporation more than Rs. 2.00 crores hence, it is not in a position to convert the part-time worker into daily wage. It is submitted that the corporation is paying the retirement dues to its retirees in installments and since the government of H.P. has not made it mandatory for the corporation to adopt the instructions/notification, therefore, these instructions are not being followed by taking financial position of the corporation into account. For the aforesaid reasons, it is submitted that the case of the petitioner is without merits and the petition be, therefore, dismissed.

4. The petitioner has filed rejoinder wherein he has re-affirmed the averments made in the petition and denied those made in the reply.

5. On the pleadings of the parties, following issues have been framed on 09.12.2015:—

1. Whether the action of the respondents to not convert part time services of the petitioner, part-time sweeper to full-time services/daily wages on completion of 10 years of continuous service as per govt. policy is illegal and unjustified as alleged. If so, its effect? ...*OPP*.
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? ...*OPP*.
3. Whether the claim petition is not maintainable in the present form? ...*OPR*.
4. Whether the petitioner has no cause of action to file present petition as alleged. If so, its effect? ...*OPR*.

Relief.

6. I have heard learned Authorized Representative for the petitioner as well as learned Counsel for the respondents at length and considered the material on record.

7. For the reasons recorded hereinafter, my findings on the aforesaid issues are as under:—

Issue No. 1	: Affirmative
Issue No. 2	: Affirmative
Issue No. 3	: No
Issue No. 4	: No
Relief	: Petition is partly allowed as per operative portion of the Award.

REASONS FOR FINDINGS.

ISSUES No.1 to 4

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. Most of the facts are admitted in this case and the entire lis revolves around the notification of the State Government and its applicability to the respondents. It is an admitted case that the petitioner was engaged as part-time Safai-Karamchhari in the year 1992 with the respondent no.2 and she had been working in the same capacity till date. The respondent has further come up with the case that the petitioner has been working for four hours daily and payments of four hours

are made to her. This controversy is infact not relevant to answer this reference as to whether she is working for eight hours or four hours, as she is admittedly a part-time Safai-Karamchari. The question before this court is regarding the notification of the Government regarding conversion of the services of the part-time workers into daily wage workers.

10. The respondents have themselves placed on record a notifications of the Government dealing with the part-time workers and their conversion into daily wagger. The first notification is dated 5th July, 2007, copy whereof has been placed on the record as Ext.RW1/C and the second notification that of 28th June, 2014 (Ext.RW1/D). The only question to be looked into is whether the act and conduct of the respondents in not considering the case of the petitioner for conversion of her services into that of daily wage from part-time is bonafide and based upon the actual and bonafide deliberation on the pros and cons of the notification of the Government or not?

11. A careful perusal of the first notification of the Government dated 5th July, 2007 (Ext.RW1/C) shows that cases of those part-time workers were to be considered for their conversion into daily wagger who had completed 10 years continuous service as on 31.02.2006. The petitioner had joined in the year 1992 and she had completed 10 years in 2002 and thus her case *prima-facie* is covered under this notification. As per this notification, the Autonomous Boards, Corporation and the universities are not required to adopt this notification *mutatis-mutandis* but should decide to adopt the same depending on their own financial position. The instruction no.(v) is thus very important for the purpose of this case. The respondents has also taken the shelter of the this provision to contest the claim petition. It is no doubt very clear that this notification could be not given effect by the Autonomous Boards, Corporation including the universities provided they are able to make out a case that their own financial position was such that the conversion of the part-time workers into daily wagers was not possible and it will have an adverse impact on the financial health of the institution. This notification was issued on 5th July, 2007 and on the date of this notification the petitioner was governed by the same and her case was to be considered in accordance with this notification. The respondent corporation could avoided the implementation of this notification in case a conscious decision was taken after analyzing and deliberating upon the facts and circumstances to not to adopt the same on the ground of poor financial health of the corporation. It may be stated here that the Government notifications can not be ignored lightly at own whims and fancies until, the discretion given by the government is not exercised in a judicious manner after weighing all the factors and from all the possible angles.

12. In the aforesaid background, once the notification pertaining to the year 2007 Ext.RW1/C was received by the respondent Corporation from the Government, the matter should have been discussed by the corporation in some of its meetings be a special meeting or annual meeting and after considering the matter from all angles a resolution was liable to be passed by the respondent explaining therein everything and explaining the grounds for showing inability to adopt this notification. Had such procedure been followed and and had such a resolution been passed, the notification could have be avoided by the respondents. No such meeting of the Directors of the Corporation or other office bearers who could take the policy decisions for the corporation was ever convened at any in the year 2007 and thereafter. No such document has been placed on the record to show that the Board of Directors or other office bearers who were competent to take policy decisions for the corporation had ever held a meeting and the effects of this notification were discussed *vis-a-vis* the financial health of the corporation and after examining the matter from all possible angle it was ultimately decided that it was not the interest of the corporation to adopt this notification in letter and spirit. Had any such deliberation taken place in the corporation and at any such findings arrived at, the respondents could have taken such a plea while contesting this claim. Absolutely no meeting was held nor any such resolution or policy decision was taken in the year 2007 and thereafter. The respondents have placed on record 41st annual report of 2014-2015 Ext.RW/1F showing therein that the corporation was running in losses. What was position in the

year 2007 when the notification of the Government had arrived and the petitioner was eligible to be considered for conversion of her services into daily wage? There is no material on the record to show the position of corporation in the year 2007. By placing the annual report 2014-2015 on the record, the respondents cannot evade the notification. When this annual report Ext.RW1/F is carefully gone through it becomes clear that there is Managing Director, Board of Directors and other many officers in the corporation. It is also clear that even bonus was being paid to its employees and the corporation had regular employee who were paid salary regularly. There is not even a reference in this annual report that Board of Directors had any point of time discussed the repercussions of the notification of the Government and after examining the same taken a policy decision that it was not possible to implement the notification as it shall affect the financial health of the corporation adversely. When no such deliberation ever took place in the corporation at any point of time the corporation cannot take this plea merely to contest the claim at such a belated stage. The respondents were bound to consider the case of the petitioner in the year 2007 itself when the notification was circulated. It was for the respondents to convene the meeting of Board of Directors and others in the 2007 itself to discussed repercussion of the implementation of the notification. It was only in the meeting of the Board of Director that an exception could be created to the notification by way of a resolution. As aforesaid, no such meeting is proved to have taken place and no such matter is proved to have been discussed. There is no material on the record to show that responsible officers/directors of the corporation had examined the notification and created an exception to the same. In the aforesaid facts and circumstances by simply contesting the claim by taking shelter of clause no (v) of the notification, the respondents can not escape the liabilities. The reply filed by the respondent is, therefore, neither bonafide nor genuine for the reasons already discussed hereinabove.

13. There is one more aspect of the case which requires a mention here. The reply was filed by the Managing Director of the corporation in which averments were to show that the respondents were not adopting the notification for the reasons that financial health of the corporation was not sound. This reply is silent regarding any meeting or policy decision taken by the corporation before the reply was filed. Who gave the Powers to the M.D of the Corporation to decide whether a notification of the State Government should be adopted or not? Was MD of the Corporation competent to take such decision without the concurrence of the Board of directors? When the respondent was directed to lead evidence, the Managing Director did not appear in the witness box. Rather one Shri Rajinder Prasad, In-charge of respondent corporation appeared as RW1 and tendered on record the joining report of the petitioner as Ext. R1, appointment letter Ext. RW1/B, notifications Ext. RW1/C and Ext.RW1/D and copy of attendance register is Ext. RW1/E. He has not stated anything regarding the facts as who decided to not to implement the notification. He has merely tendered the annual report Ext.RW1/F without explaining anything. When he was subjected to cross-examination he feigned ignorance to most of the question put to him and did not clarify at any point of time as to at which level the decision was taken by the corporation that the notification shall not be implemented for particular reasons. The language of the notification is very much clear that it apply to all the departments including corporations, autonomous bodies or universities. The only exception that has been carved out in respect of all corporations, universities or autonomous bodies is that they have the discretion to adopt the notification, in case their financial health does not permit. Once a discretion has been given to the autonomous bodies and corporations, the same can not be exercised mechanically but the same has to be exercised judicially by due application of mind to all facts and circumstances and taking into account the relevant material. There is no material on the record to show that after a complete deliberation a decision was taken in the benefit of corporation to not to implement the notification. when it is so, the respondent cannot take the shelter of saving clause of the notification. The respondents cannot take the benefit of exception merely to contest the claim without taking a policy decision at earlier point of time. Had the corporation shown its bonafides, it would not have waited for the petitioner to file the claim petition in the year 2015, but would have acted with promptness in the year 2007.

14. The petitioner has appeared as PW1 in the witness box and tendered on record Award passed in case of some other workmen as Ext.PW1/B and the demand notice Ext. PW1/C. The demand notice shows that she has raised demand in the year 2010 and despite of this nothing was done. She had also tendered on record some other documents which are not very relevant. She has also tendered on record her own affidavit Ext. PW1/A. The respondents have proved on record the subsequent notification of the Government dated 28th June, 2014 as Ex.RW1/D. It is also to the same effect except for a slight change. The period of part-time work has been reduced to eight years in place of ten for conversion of the services of such part-time worker into daily wage. There was a direction to convert the part-time workers to daily wagers. Nothing was done by the respondents regarding this notification as well. As aforesaid, the claim of the petitioner had become due in the year 2007 itself but it was not considered. The demand was raised by the petitioner in the year 2010 and nothing was done by the respondent. Therefore, the petitioner shall be entitled to the relief on the date of demand notice.

15. For the facts already discussed hereinabove in detail, it is held that the act of the respondents has been illegal and unjustified in not considering the case of the petitioner for converting her part-time services into daily wage service as per the policy of the Government to which no exception was carved out by the respondent by way of a resolution as discussed hereinabove. Therefore, the petitioner is held entitled to the relief as claimed by her and the reference is answered in positive holding that the respondents shall consider the case of the petitioner for conversion of her part-time services into daily wage in accordance with the policy and in case, her status is converted into that of daily wagers after consideration of her claim, it shall be operative from the date of the demand *i.e.* 2010. The petitioner shall also be entitled for consequential seniority and other admissible benefits. In view of my findings issue no.1 is held in affirmative, issue no.2 is also held in affirmative, petition is held maintainable and petitioner is held to have cause of action in her favour hence issues no. 3 and 4 are held decided in favour of the petitioner.

RELIEF

16. In view of my above discussions, the present claim petition succeeds in part and the same is partly allowed. The respondents are directed to consider the case of the petitioner for conversion of her part-time services into daily wage and in case she is held entitled for the relief in accordance to the policy, she shall get the status of daily wage from the date of the demand. The petitioner shall also be entitled for consequential seniority and other admissible benefits. Parties are left to bear their own costs.

17. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 16th day of June, 2022.

HANS RAJ,
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF Sh. HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 186/2017
Date of Institution : 16-08-2017
Date of Decision : 17-06-2022

Smt. Ratni Devi w/o Late Shri Ishwar Dass, r/o V.P.O. Near Meat Market Bajoha,
Ghumarwin, District Bilaspur, H.P. ...Petitioner.

Versus

1. The Director, Higher Education Department, Government of Himachal Pradesh,
Shimla-2.

2. The Principal, Swami Vivekanand Government Degree College, Ghumarwin, District
Bilaspur, H.P. ...Respondents.

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri S.S. Sippy, Ld. AR
For the Respondent(s) : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether termination of the services of Smt. Ratni Devi w/o Late Shri Ishwar Dass, r/o V.P.O. Near Meat Market Bajoha, Ghumarwin, District Bilaspur, H.P. after attaining age of superannuation on 29-04-2014 *vide* orders dated 07-07-2015 by (i) the Director, Higher Education Department, Government of Himachal Pradesh, Shimla-2 (ii) the Principal, Swami Vivekanand Government Degree College, Ghumarwin, District Bilaspur, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority past service benefits and compensation the above worker is entitled to from the above employer?”

2. The case of the petitioner in her statement of claim is that she was engaged as daily waged Safai-Karamchari on 30.10.1996 with the respondent no.3 after she was subjected to interview. Thereafter she served the respondent till 01.4.1999 when her services were disengaged without any reason. She approached this court vide case no.332/2001 (RBT No.2004) and it was decided on 8.9.2005 whereby her services were ordered to be re-engaged. As per the petitioner, she joined the services and worked continuously till 28.9.2014 and from 29.9.2014 she was asked to not to report the work as she had attained the age of superannuation, whereas, as a matter of fact her date of birth was 12.2.1959 and as per rules she was to retire on 28.2.2019. The petitioner alleges that three letters were written to her *i.e.* 11.2.2014, 21.5.2014 and 16.9.2014 and she obtained birth certificate from the competent officer showing her date of birth 12.2.1959 yet the respondents did not accept the certificate and termed the same as wrong. The petitioner alleges that in between 29.4.2014 to 15.5.2015 she was compelled to give in writing that her child was ill she could not attend the school for these reasons but when she refused to do so, she was threatened and her signatures were obtained on some letter by exercising fraud which amounts to unfair labour

practice. The petitioner has, therefore, alleged that her services were terminated without following the process of law and in violation the provisions contained in Section 25-F (a) and (b) hence, her re-engagement with all consequential benefits be ordered.

3. The respondents have resisted and contested the petition by filing reply. The engagement of the petitioner as daily wager is admitted *w.e.f.* 03.10.1996 is admitted. It is admitted that claim petition was earlier filed by the petitioner and same was allowed by the court where after she joined the work. The case of the respondents is to the effect that the petitioner worked with the respondent till September, 2014 and thereafter abandoned the work at her own. The further case is to the effect that the petitioner was asked to provide the certificate of age proof and letter dated 11.2.2014 was issued to her but she submitted different certificate with different date of birth and matter was, therefore, submitted to the respondent no.1. On 14.10.2014 show cause notice was also issued to the petitioner and a committee was formed to look into the matter *vide* order dated 16.5.2015. The committee also called the petitioner through letters for her personal appearance. The petitioner appeared before the committee on 6.7.2015 where the facts disclosed by her regarding her age were not found satisfactory and the committee found that the order of SDM Sadar Bilaspur regarding her date of birth was wrongly obtained by her by concealing the true facts as date of birth of her elder son was recorded as 20.10.1969 and she could have given birth to her son at the age of 10 years. It is also submitted that the date of birth in the birth register of Panchayat record of the petitioner is 1952 which seems to be true. Other allegations are denied and it is submitted that petition be dismissed.

4. The petitioner has filed rejoinder wherein she has re-affirmed the averments made in the petition and denied those made in the reply.

5. On the pleadings of the parties, following issues have been framed on 21.06.2019:—

1. Whether termination of the services of the petitioner after attaining the age of superannuation on 29-04-2014 *vide* order dated 07-07-2015 by the respondents is/was illegal and unjustified, as alleged? ...*OPP.*
2. If issue no.1 is proved in affirmative to what service benefits the petitioner is entitled to? ...*OPP.*
3. Whether the claim petition is not maintainable, as alleged? ...*OPR.*

Relief.

6. I have heard learned Authorized Representative for the petitioner as well as learned Deputy District Attorney for the respondents at length and considered the material on record.

7. For the reasons recorded hereinafter, my findings on the aforesaid issues are as under:—

- | | |
|------------|--|
| Issue No.1 | : decided accordingly |
| Issue No.2 | : decided accordingly |
| Issue No.3 | : No |
| Relief | : Petition is partly allowed awarding lump-sum compensation of ₹30,000/- per operative portion of the Award. |

REASONS FOR FINDINGS

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. While going through the pleadings of the parties the controversy can be narrowed down in terms of facts. It is admitted case of the parties that the petitioner was engaged as daily waged Safai-Karamchhari in the year 1996 by the respondent no. 2 and she worked as such till the year 1999. Thereafter a dispute arose between the parties and the dispute was resolved by this court by answering a reference so received. The copy of the award passed in the reference has been tendered as Mark-A on the record which go to show that she was ordered to be re-engaged with back wages to extent of 30%. The petitioner thereafter worked till September, 2014. Both the parties have agreed on the point that the petitioner worked till September, 2014 both the parties have differed on the points as to whether the petitioner was terminated in September, 2014 or she gave up her job voluntarily. The petitioner alleges that she was asked to not to report to the duties and thus her services were terminated orally, whereas, the respondents have pleaded in para no.6 of the reply that the petitioner worked intermittently upto September, 2014 where after she left the work on her sweet will. Now the factual dispute to be resolved is whether the petitioner has abandoned the job at her own or not?

10. It is settled law that there is no presumption of abandonment of the job. Such an abandonment is not established unless cogent evidence is led by the respondent to prove the abandonment. Since the Act has been framed as beneficial piece of legislation in order to benefits of labour class therefore, any fact the respondent intends to rely against the labourer has to be established by leading positive evidence by the respondents. There can be no presumption against the interest of the labourer. The petitioner has appeared as PW1 in the witness box and stated in her affidavit Ex.PW1/A that she was asked in September 2014 to not to report to the work and thus she her services were terminated orally. In her cross-examination she specifically denied that she has herself abandoned the work. The onus has shifted upon the respondents to prove that the petitioner has abandoned the work at her own. If the plea of the respondent to the effect that the petitioner has left the work in September, 2014 is accepted then it was the duty of the respondents to have called the petitioner by way of some notice or explanation to join the work. In case she did not join the work despite of reminding her way of letter of the rights she would loose by leaving the work in such a manner, only then the presumption of abandonment could be drawn. The respondents have examined Smt. Vasundhara Rajan Bhardwaj, a retired Principal as RW1 in the witness box and she has tendered her affidavit Ext.RW1/A. She has also tendered on record one letter dated 20.5.2015 as Ext. RW1/H. This letter shows that the petitioner was asked to report before the inquiry committee formulated to settle the issue regarding the date of her birth. Another letter Ext. RW1/J is dated 1st July, 2015 *vide* which she was asked to report before the committee on 04.7.2015. On 4th July 2015 one more letter was issued to her asking her to report before the committee on 06.7.2015. This letter is Ext. RW1/K. There is no letter on the record which would suggest that she had left the work at her own and she should report to the duties immediately. One letter Ext.RW1/F is important for the purpose of this case. It is claimed to have been issued on 16.5.2015 by way of registered post but no postal receipt has been placed on the record. It speaks of some previous letter dated 14.5.2015 when she was asked to justify her absence. It is said in this letter that she has also not reported to her duties. This alleged letter dated 14.5.2015 whereby the petitioner was allegedly directed to join her duties has not been placed on the record. Thus no sincere efforts are proved to have been made by the respondents to call for the petitioner soon after September, 2014 to report to her work. This letter appears to have been prepared to show bonafide and for reasons the postal receipt has not been tendered on the record. It is thus very much clear that sincere efforts were not made by the respondents to call the petitioner to join her duties or explain in writing as to why she was not reporting to her duties. Such efforts have not been made

by the respondents, therefore, the plea of abandonment as taken by the respondents is not established. The intention of the petitioner to give up the job are not proved and it is clear from para no.4 of the reply filed that an inquiry was initiated to examine the correctness of the date of birth of the petitioner and petitioner has appeared before the committee even on 06.7.2015. When the petitioner was appearing before the committee even the year 2015 there is no reason to hold that she was not interested in the work she was doing. In case she wanted to give up work she would have never appeared before the committee and contested the claim. Thus, the plea of abandonment as taken by the respondents fails and there is no reasons to disbelieve the certificate issued by SDM Bilaspur whereby her date of birth has been shown as 12.02.1959. in this manner she is proved to have not attained the age of superannuation in the year September 2014. thus dispensing her services in the year 2014 was wrong and illegal act, for which she is required to be compensated in terms of money.

11. The respondents have tried to make out a case that the petitioner was proved to have been borne in the year 1952 and she had obtained incorrect certificate from SDM Bilaspur showing her date of birth as 1959. The case of the petitioner further to the effect that inquiry committee was constituted and the date of birth of the petitioner was ordered to be ascertained. Surprisingly, the report of the inquiry committee has not been placed on the record. Had there been the report of inquiry committee to the effect that actual date of birth of petitioner was 1952 and not 1959, the position would have been different. The certificate obtained by the petitioner from SDM can not be ignored when the same has not been cancelled till date. When there is no report of the inquiry committee on the record, there is no reason to presume that the date of birth of the petitioner was 1952 and she had already crossed the age of superannuation in the year 2012. Had this been the case of the respondents, the plea of abandonment was not required at all. In the year 2014 as the petitioner would have already crossed the age of superannuation in the year 2012. Thus the respondents have not been able to find out what the actual date of birth of the petitioner despite of the fact that an inquiry committee was formulated and inquiry was done in the matter. It is clear from the record that the petitioner had applied to SDM Bilaspur for obtaining certificate regarding her date of birth and her certificate was made by SDM Bilaspur under the rules and certificate Ext.RW1/N showing the date of birth 1959 was issued. This certificate was issued on the basis of report of EX.RW1/O and this certificate has not been canceled by the authorities till date. There is no material in record to show that the SDM Bilaspur was approached by the respondents with the prayer to cancel the certificate.

12. It is also an admitted fact that the petitioner has now crossed the age of superannuation, and therefore, no question of her reinstatement arises. However, taking into account the facts and circumstances of the case, the petitioner is liable to compensated for the wrong done with her and therefore the relief claimed in the petition can be modified by holding that the petitioner is entitled to compensation to the tune of Rs. 30,000/- for the lost of occasioned to her by terminating her services before the age of superannuation. In view of my findings issues no.1 and 2 are answered accordingly, petition is held maintainable and petitioner is held to have cause of action in her favour hence issues no. 3 and 4 are held decided in favour of the petitioner.

RELIEF

13. In view of my discussion on the above issues, it is held that as the petitioner has been retired from service hence reinstatement and other consequential benefits cannot be granted in her favour but she is held entitled for compensation to the tune of ₹30,000/- (Rupees Thirty thousand only), which would be paid within four months by the respondent and from the date of receipt of Award failing which the respondent shall be liable to pay the interest @ 6% per annum on the said amount from the date of award till the date of its realization. Parties are left to bear their costs.

14. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 17th day of June, 2022.

HANS RAJ,
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 216/2015
Date of Institution : 25-05-2015
Date of Decision : 18-06-2022

Shri Oma Dutt s/o Shri Paras Ram, r/o Village Rangher, P.O. and Tehsil Nihri, District Mandi, H.P. ...*Petitioner.*

Versus

Executive Engineer, I&PH Division, Karsog, District Mandi, H.P. ...*Respondent.*

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri Deepak Azad, Ld. Adv.
For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether the industrial dispute raised by the worker Shri Oma Dutt s/o Shri Paras Ram, r/o Village Rangher, P.O. and Tehsil Nihri, District Mandi, H.P. before the Executive Engineer, I&PH Division, Karsog, District Mandi, H.P. *vide* demand notice dated 26.03.2007 regarding his alleged illegal termination of service *w.e.f.* 01.04.1994 suffers from delay and latches? If not, Whether termination of the services of Shri Oma Dutt s/o Shri Paras Ram, r/o Village Rangher, P.O. and Tehsil Nihri, District Mandi, H.P. by the Executive Engineer, I&PH Division, Karsog, District Mandi, H.P. *w.e.f.* 01.04.1994 without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above aggrieved workman is entitled to from the above employer?”

2. The petitioner has stated in his statement of claim that he was engaged as daily wage worker in I&PH Division Karsog, District Mandi in the year 1991 and worked as such till 2000 when his services were disengaged without any notice. His further case is to the effect that

S/Shri Desh Raj, Kuldeep, Dharam Pal, Khem Raj, Sita Ram, Chaman Lal, Brij Lal, Shaligram, Hem Raj, Inder Singh etc. who are junior to him were retained and with the passage of time their services were regularized by the respondent and thus injustice was done to him. The petitioner raised the industrial dispute by way of demand notice and the matter was not referred to the Labour Court by the Labour commissioner and he rather closed the proceedings on 27th March, 2012 holding that notice was *prima-facie* vexatious and frivolous. The petitioner thereafter approached the Hon'ble High Court of Himachal Pradesh *vide* CWP No.9267/2014 which was disposed of by the Hon'ble Court with the directions to the respondent to refer the matter for adjudication to this court. On such averments, the petitioner has submitted that the respondent has not only violated the provisions contained in Section 25-F but also under Section 25-G of the Act as workmen junior to the petitioner were retained and regularized with the passage of time. On such averments the petitioner has prayed for the relief of his reinstatement with continuity in service, seniority and all consequential benefits.

3. The respondent has resisted and contested the petition on the plea of maintainability. On merits, it is specifically denied that the petitioner was engaged in the year 1991 and he worked as such till 2000. It is clarified that he (petitioner) was engaged as a daily wager in 3/1993 and he worked intermittently upto 03/1994 and thereafter abandoned the work at his own. He is said to have raised the demand after lapse of eight years and he had never completed 240 days in the calendar year. As per the respondent, the persons named by the petitioner as his junior worked continuously and their services were regularized as per the policy of the Government. On the aforesaid averments, it is submitted that the petitioner has failed to make out of the case for his reinstatement and other benefits, hence the petition be dismissed.

4. The petitioner has filed rejoinder and reaffirmed the averments so made in the claim petition and denied those made in the reply.

5. On the pleadings of the parties and the crux of the reference issues were framed on 29.03.2016. It is pertinent to mentioned here that as per *zimni* order dated 05.01.2022, the issues no.1 and 3 were amended by my learned predecessor and now the issues read as under:—

1. Whether the industrial dispute raised by petitioner *vide* demand notice dated 26-03-2007 qua is termination of service *w.e.f.* 01-04-1994 by respondent suffers from the vice of delay and laches as alleged? If so, its effect? ...*OPR.*
2. Whether termination of the services of petitioner by the respondent *w.e.f.* 01-04-1994 is/was illegal and unjustified as alleged? ...*OPP.*
3. If issue no.2 is proved in affirmative, to what service benefits the petitioner is entitled to? ...*OPP.*
4. Whether the claim petition is not maintainable in the present form as alleged? ...*OPR.*

Relief.

6. I have heard learned counsel for the petitioner and learned Dy. D.A. for the respondent at length and considered the material on record.

7. For the reasons recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1 : decided accordingly

Issue No. 2	: decided accordingly
Issue No. 3	: decided accordingly
Issue No. 4	: No
Relief	: Petition is partly allowed awarding lump-sum compensation of ₹25,000/- per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No. 1 to 3

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. The petitioner has alleged that he was engaged by the respondent in the year 1991 and worked till 2000 in continuity. The respondent, on the other hand, by filing amended reply has submitted that the petitioner was engaged in March, 1993 and he worked intermittently *w.e.f.* 03/1993 to 03/1994. The respondent has also placed on the record the mandays chart and tendered the same Ext. RW1/B. A careful perusal of the mandays chart Ext. RW1/B shows that the petitioner had worked in 03/1993 for 24 days and thereafter in 8/1993 for 27 days, 10/1993 for 28 days, 11/1993 for 26 days, 12/1993 for 31 days total 136 days in the year 1993 and 01/1994 for 29 days and 03/1994 for 25 days total 54 days in 1994. The mandays chart has been filed by the respondent after preparing the same from the available records and therefore, there are no reasons to disbelieve the same. There is no material on the record to show that the respondent department has any personal enmity with the petitioner and therefore, there is no question of fabricating the records against him. When the petitioner alleges that he was engaged in the year 1991 in the department and worked till the year 2000 in continuity, the initial onus upon to him to prove that he was engaged in 1991 as a daily wage and he worked in the same capacity till 2000 in continuity. No evidence was led by the petitioner to discharge the initial onus placed upon him. Not even the wife of the petitioner has come forward to depose about the fact that her husband had been going to his work place right from the year 1991 till the year 2000. Any other person who had ever seen the petitioner working in the department in *w.e.f.* 1991 till 2000 could have been examined by him in support of the plea. Since I&PH department is public dealing department it is but natural that the workmen of the department comes in direct with the general public while performing their public utility. Any person amongst the public of area would have seen the petitioner working in between 1991 to 2000 and could have deposed before the court about this fact. Since the petitioner was working in his own area and locality, therefore, it cannot be presumed that the petitioner has worked with the I&PH Department till the year 2000 and no body had seen him working there. Had the petitioner examined any witness of locality or Panchayat to at least depose about the fact that after the year 1994, the petitioner was seen by him while working for I&PH department, the onus placed upon the petitioner could have been discharged. Since none has come forward to support of the case of the petitioner, therefore, there is no reason to not to believe the correctness of the mandays chart prepared by the public servant while performing his public duties. After all, the wages are paid out government money and every rupee of the government money has to be accounted for. In case, the petitioner was paid wages from government money till the year 2000, it was not difficult to procure such records. Still no such material has been placed on the record by the petitioner. It cannot be presumed that no record regarding the same was prepared by the respondent. The petitioner was always at liberty to call for the records of the I&PH department *w.e.f.* 1991 to 2000 in which the petitioner had received the payment. The petitioner would have named his co-workers so that the muster rolls of those co-workers could be summoned in the court in order to find out whether the petitioner has worked with them or not. The number of the muster roll issued in favour of the petitioner could have been easily ascertained from such an exercise. Since the petitioner has not led any evidence on the record, therefore, it is not proved that he had

worked with I&PH department from 1991 to 2000. This mandays chart filed and proved on the record by the respondent has to be relied upon and as per this mandays chart (Ext.RW1/B) the petitioner has worked for only seven months with the respondent in between 03/1993 to 03/1994 for total 190 days. Thus the petitioner has neither worked for minimum 240 days nor for a continuous period of twelve calendar months with the respondent in a calendar year, and therefore, the provisions as contained in Section 25-F is not attracted to this case.

10. The respondent has examined Shri Anil Verma as RW1 in the witness box and he has admitted the correctness of the documents Ext. RW1/C. Ext. RW1/C is the document showing list of some workers. This witness has also admitted that the persons mentioned in Ext. RW1/C are junior to the petitioner and they stand regularized. It is therefore, proved from the statement of RW1 Shri Anil Verma that junior workmen to the petitioner had worked continuously and they were regularized in accordance with policy of the Government with the passage of time. In the aforesaid background, it is for this court to adjudicate the plea of the respondent whether the petitioner has abandoned the work at his own sweet will or not. It is well settled law that the Industrial Disputes Act is beneficial piece of legislation and it has been enacted for the welfare of the labour class, and therefore, its provisions are to be construed liberally and in favour of the labourer. It is also settled law that in case the respondent takes the plea of abandonment of work by the workman, the onus is shifted upon the respondent and it is for the respondent to discharge the onus by leading cogent and trustworthy evidence to prove that the workman has in fact abandoned the work at his sweet will after fully understanding the consequences thereof. It is also settled law that whenever a workman does not report to the work it is the duty of employer to issue notice to him or seek his explanation in order to find out as to why the workman was not reporting to the work. The employer is duty bound to inquire into the matter and then to prepare a record to the effect that the workman despite of being informed of his valuable rights that would accrue to him with the passage of time has not reported to his duty, hence, such an act on the part of the workman amounted to abandonment of the work. When the employer is unable to produce such a material before the court like the copy of the notice or explanation delivered to the workman or any writing prepared by the employer to show that the workman has abandoned the work at his own, no presumption of abandonment of work can be drawn. Such observations were made by the Hon'ble High Court in **State of Himachal Pradesh and anr. vs. Guddi Devi and anr. in CWP No.2196/2016 decided on 28.6.2019.**

11. In case in hand the respondent has neither tendered on the record any notice that was sent to the petitioner when he had stopped reporting for the work nor explanation of the petitioner was called and nor any memo was served upon him. No document has been placed on the record by the respondent to show that after giving complete opportunity to the petitioner to join his duties he had not joined. When such is the position, the plea of abandonment as up taken by the respondent fails.

12. Although, the plea of abandonment as taken by the respondent has failed yet this court cannot lose sight of the fact that the petitioner has slept over his right for a long time and has approached the authorities under the Act after inordinate delay. Once it has been held by the court that the petitioner has lastly reported to the work in the year 1994, the petitioner could not have kept sleeping over his rights for a long time. Once it has been said by the petitioner that the junior workmen to him were retained, therefore, the cause of action to agitate the matter had arisen in favour of the petitioner in the year 1994 itself. The petitioner has slept over his rights for a long time and has raised his demand for the first time in the year 2007 by serving a demand notice. Thus delay in raising the demand is not less than 14 years which is inordinate delay and it is sufficient to deny the relief of reinstatement of the petitioner. Law is well settled by the Hon'ble High Court of Himachal Pradesh on this point in **Prakash Chand vs. Executive Engineer, HPPWD, Civil Writ Petition No. 273/2019 decided on 09 April, 2019**, in which the retrenched workman had raised

the dispute after nine years before this court and he was awarded compensation to the tune of 1 lakh. The Hon'ble High Court in Writ Petition was pleased to affirm the award holding that much water had already flown under the bridge and thus no error was committed by ordering the compensation in place of reinstatement. The Hon'ble High again in **Vyasa Devi vs. Executive Engineer, HPPWD, Civil Writ Petition No.640 of 2019 decided on 24 April, 2019** was pleased to hold in the similar manner and the award of the Tribunal whereby compensation of Rs.60,000/- was awarded in her favour was upheld as there was delay of 11 years in raising the demand by Smt. Vyasa Devi.

13. It is also well settled law that when the relief of reinstatement is denied to the workman on account of inordinate delay or otherwise, the court is well within its power to mould the relief. The court can grant compensation to such workman for the inaction of the respondent. Since the respondent had not called the petitioner back to report to his work, the respondent is therefore, liable to pay compensation. Taking into account the number of working days and inordinate delay in the matter and other facts the petitioner is held entitled for compensation to the tune ₹25000/- (Rupees twenty-five thousand only). Issues No. 1 to 3 are decided accordingly.

ISSUE No. 4

14. The petition is held maintainable for the aforesaid reasons and the petitioner is held entitled for compensation as held hereinabove, hence this is also decided accordingly.

RELIEF

15. In view of my discussion on the above issues, it is held that though there had been violation of Section 25-G of the Act as well as inaction of the respondent in this case but the petitioner had raised demand after a gap of 14 years and his claim for reinstatement has been thus vitiated by delay and laches, hence reinstatement and other consequential benefits cannot be granted in his favour but he is held entitled for compensation to the tune of ₹25,000/- (Rupees twenty-five thousand only), which would be paid within four months by the respondent and from the date of receipt of Award failing which the respondent shall be liable to pay the interest @ 6% per annum on the said amount from the date of award till the date of its realization. Parties are left to bear their costs.

16. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 18th day of June, 2022.

HANS RAJ,
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 215/2015
Date of Institution : 25-05-2015

Date of Decision : 20.06.2022

Shri Kundal Lal s/o Shri Paras Ram, r/o Village Rangher, P.O. and Tehsil Nihri, District Mandi, H.P. ...*Petitioner.*

Versus

Executive Engineer, I&PH Division, Karsog, District Mandi, H.P. ...*Respondent.*

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri Deepak Azad, Ld. Adv.

For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether the industrial dispute raised by the worker Shri Kundal Lal s/o Shri Paras Ram, r/o Village Rangher, P.O. and Tehsil Nihri, District Mandi, H.P. before the Executive Engineer, I&PH Division Karsog, District Mandi, H.P. *vide* demand notice dated 26.03.2007 regarding his alleged illegal termination of service *w.e.f.* 01.07.1999 suffers from delay and latches? If not, Whether termination of the services of Shri Kundal Lal s/o Shri Paras Ram, r/o Village Rangher, P.O. and Tehsil Nihri, District Mandi, H.P. by the Executive Engineer, I&PH Division, Karsog, District Mandi, H.P. *w.e.f.* 01.07.1999 without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above aggrieved worker is entitled to from the above employer?

2. The petitioner has stated in his statement of claim that he was engaged as daily wage worker in I&PH Division Karsog, District Mandi in the year 1991 and worked as such till 2000 when his services were disengaged without any notice. His further case is to the effect that S/Shri Desh Raj, Kuldeep, Dharam Pal, Khem Raj, Sita Ram, Chaman Lal, Brij Lal, Shaligram, Hem Raj, Inder Singh etc. who are junior to him were retained and with the passage of time their services were regularized by the respondent and thus injustice was done to him. The petitioner raised the industrial dispute by way of demand notice and the matter was not referred to the Labour Court by the Labour commissioner and he rather closed the proceedings on 27th March, 2012 holding that notice was *prima-facie* vexatious and frivolous. The petitioner thereafter approached the Hon'ble High Court of Himachal Pradesh *vide* CWP No. 9267/2014 which was disposed of by the Hon'ble Court with the directions to the respondent to refer the matter for adjudication to this court. On such averments, the petitioner has submitted that the respondent has not only violated the provisions contained in Section 25-F but also under Section 25-G of the Act as workmen junior to him were retained and regularized with the passage of time. On such averments, the petitioner has prayed for the relief of his reinstatement with continuity in service, seniority and all other consequential benefits.

3. The respondent has resisted and contested the petition on the plea of maintainability. On merits, it is specifically denied that the petitioner was engaged in the year 1991 and he worked as such till 2000. It is clarified that he (petitioner) was engaged as a daily wager in 8/1998 and he worked intermittently upto 06/1999 and thereafter abandoned the work at his own. He is said to

have worked for 69 days in between 01.08.1998 to 31.12.1998 and thereafter he worked for 1.1.1999 to 30.06.1999 for 121 days and worked thus for total 190 days. He is said to have raised the demand after a long period and he had never completed 240 days in the calendar year. As per the respondent, the persons named by the petitioner as his junior worked continuously and their services were regularized as per the policy of the Government. On the aforesaid averments, it is submitted that the petitioner has failed to make out of the case for his reinstatement and other benefits, hence the petition be dismissed.

4. The petitioner has filed rejoinder and reaffirmed the averments so made in the claim petition and denied those made in the reply.

5. On the pleadings of the parties and the crux of the reference issues were framed on 29.03.2016. It is pertinent to mentioned here that as per *zimni* order dated 05.01.2022, the issues no.1 and 3 were amended by my learned predecessor and now the issues read as under:—

1. Whether the industrial dispute raised by petitioner *vide* demand notice dated 26-03-2007 qua is termination of service *w.e.f.* 01-07-1999 by respondent suffers from the vice of delay and laches as alleged? If so, its effect? ...*OPR.*
2. Whether termination of the services of petitioner by the respondent *w.e.f.* 01-07-1999 is/was illegal and unjustified as alleged? ...*OPP.*
3. If issue no.2 is proved in affirmative, to what service benefits the petitioner is entitled to? ...*OPP.*
4. Whether the claim petition is not maintainable in the present form as alleged? ...*OPR.*

Relief.

6. I have heard learned counsel for the petitioner and learned Dy. D.A. for the respondent at length and considered the material on record.

7. For the reasons recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No.1	: decided accordingly
Issue No.2	: decided accordingly
Issue No.3	: decided accordingly
Issue No.4	: No
Relief	: Petition is partly allowed awarding lump-sum compensation of ₹30,000/- per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No. 1 to 3

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. The petitioner has alleged that he was engaged by the respondent in the year 1991 and worked till 2000 in continuity. The respondent, on the other hand, by filing amended reply has submitted that the petitioner was engaged in August, 1998 and he worked intermittently *w.e.f.*

08/1998 to 06/1999. The respondent has also placed on the record the mandays chart and tendered the same Ext. RW1/B. A careful perusal of the mandays chart Ext. RW1/B shows that the petitioner had worked in 08/1998 for 08 days and thereafter in 9/1998 for 30 days, 12/1998 for 31 days, total 69 days in the year 1998 and 01/1999 for 16 days, 02/1999 for 10 days, 03/1999 for 19 days, 04/1999 for 26 days, 05/1999 for 26 days and 06/1999 for 24 days total 121 days in 1999. The mandays chart has been filed by the respondent after preparing the same from the available records and therefore, there are no reasons to disbelieve the same. There is no material on the record to show that the respondent department has any personal enmity with the petitioner. Therefore, there is no question of fabricating the records against him. When the petitioner alleges that he was engaged in the year 1991 in the department and worked till the year 2000 in continuity, the initial onus upon him to prove that he was engaged in 1991 as a daily wage and he worked in the same capacity till 2000 in continuity. No evidence was led by the petitioner to discharge the initial onus placed upon him. Not even the wife of the petitioner has come forward to depose about the fact that her husband had been going to his work place right from the year 1991 till the year 2000. Any other person who had ever seen the petitioner working in the department *w.e.f.* 1991 till 2000 could have been examined by him in support of the plea. Since I&PH department is public dealing department it is but natural that the workmen of the department come in direct with the general public while performing their public utility. Any person amongst the public of area would have seen the petitioner working in between 1991 to 2000 and could have deposed before the court about this fact. Since the petitioner was working in his own area and locality, therefore, it cannot be presumed that the petitioner has worked with the I&PH Department till the year 2000 and no body had seen him working there. Had the petitioner examined any witness of locality or Panchayat to at least depose about the fact that after the year 1991, the petitioner was seen by him while working for I&PH department, the onus placed upon the petitioner could have been discharged. Since none has come forward to support of the case of the petitioner, therefore, there is no reason to not to believe the correctness of the mandays chart prepared by the public servant while performing his public duties. After all, the wages are paid out government money and every rupee of the government money has to be accounted for. In case, the petitioner was paid wages from government money till the year 2000, it was not difficult to procure such records. Still no such material has been placed on the record by the petitioner. It cannot be presumed that no record regarding the same was prepared by the respondent. The petitioner was always at liberty to call for the records of the I&PH department *w.e.f.* 1991 to 2000 in which the petitioner had received the payment. The petitioner would have named his co-workers so that the muster rolls of those co-workers could be summoned in the court in order to find out whether the petitioner has also worked with them or not. The number of the muster roll issued in favour of the petitioner could have been easily ascertained from such an exercise. Since the petitioner has not led any evidence on the record, therefore, it is not proved that he had worked with I&PH department from 1991 to 2000. This mandays chart filed and proved on the record by the respondent has to be relied upon and as per this mandays chart (Ext. RW1/B) the petitioner has worked for only nine months with the respondent in between 08/1998 to 06/1999 for total 190 days. Thus the petitioner has neither worked for minimum 240 days nor for a continuous period of twelve calendar months with the respondent in a calendar year, and therefore, the provisions as contained in Section 25-F is not attracted to this case.

10. The respondent has examined Shri Anil Verma as RW1 in the witness box and he has admitted the correctness of the documents Ext. RW1/C. Ext. RW1/C is the document showing list of some workers. This witness has also admitted that the persons mentioned in Ext. RW1/C are junior to the petitioner and they stand regularized. It is therefore, proved from the statement of RW1 Shri Anil Verma that junior workmen to the petitioner had worked continuously and they were regularized in accordance with policy of the Government with the passage of time. In the aforesaid background, it is for this court to adjudicate the plea of the respondent whether the petitioner has abandoned the work at his own sweet will or not. It is well settled law that the Industrial Disputes Act is beneficial piece of legislation and it has been enacted for the welfare of

the labour class, and therefore, its provisions are to be construed liberally and in favour of the labourer. It is also settled law that, in case, the respondent takes the plea of abandonment of work by the workman, the onus is shifted upon the respondent and it is for the respondent to discharge the onus by leading cogent and trustworthy evidence to prove that the workman has in fact abandoned the work at his sweet will after fully understanding the consequences thereof. It is also settled law that whenever a workman does not report to the work it is the duty of employer to issue notice to him or seek his explanation in order to find out as to why the workman was not reporting to the work. The employer is duty bound to inquire into the matter and then to prepare a record to the effect that the workman despite of being informed of his valuable rights that would accrue to him with the passage of time has not reported to his duty, hence, such an act on the part the workman amounted to abandonment of the work. When the employer is unable to produce material before the court like the copy of the notice or explanation delivered to the workman or any writing prepared by the employer to show that the workman has abandoned the work at his own, no presumption of abandonment of work can be drawn. Such observations were made by the Hon'ble High Court in **State of Himachal Pradesh and anr. vs. Guddi Devi and anr. in CWP No.2196/2016 decided on 28.6.2019.**

11. In the case in hand, the respondent has neither tendered on the record any notice that was sent to the petitioner when he had stopped reporting for the work nor explanation of the petitioner called for at that time, and nor any memo served upon him at that time. No document has been placed on the record by the respondent to show that after giving complete opportunity to the petitioner to join his duties he had not joined and it was presumed that he has abandoned the work. When such is the position, the plea of abandonment as taken up by the respondent fails.

12. Although, the plea of abandonment as taken by the respondent has failed yet this court cannot lose sight of the fact that the petitioner has slept over his right for a long time and has approached the authorities under the Act after an inordinate delay. Once it has been held by the court that the petitioner has lastly reported to the work in the year 1999, the petitioner could not have kept sleeping over his rights for a long time. Once it has been said by the petitioner that the junior workmen to him were retained, therefore, the cause of action to agitate the matter had arisen in favour of the petitioner in the year 1999 itself. The petitioner has slept over his rights for a long time and has raised his demand for the first time in the year 2007 by serving a demand notice. Thus delay in raising the demand is not less than 08 years which is inordinate delay and it is sufficient to deny the relief of reinstatement of the petitioner. Law is well settled by the Hon'ble High Court of Himachal Pradesh on this point in **Prakash Chand vs. Executive Engineer, HPPWD, Civil Writ Petition No. 273/2019 decided on 09 April, 2019**, in which the retrenched workman had raised the dispute after nine years before this court and he was awarded compensation to the tune of 1 lakh. The Hon'ble High Court in Writ Petition was pleased to affirm the award holding that much water had already flown under the bridge and thus no error was committed by ordering the compensation in place of reinstatement. The Hon'ble High again in **Vyasa Devi vs. Executive Engineer, HPPWD, Civil Writ Petition No.640 of 2019 decided on 24 April, 2019** was pleased to hold in the similar manner and the award of the Tribunal whereby compensation of Rs.60,000/- was awarded in her favour was upheld as there was delay of 11 years in raising the demand by Smt. Vyasa Devi.

13. It is thus well settled law that when the relief of reinstatement is denied to the workman on account of inordinate delay or otherwise, the court is well within its power to mould the relief. The court can grant compensation to such workman for the inaction of the respondent. Since the respondent had not called the petitioner back to report to his work, the respondent is therefore, liable to pay compensation. Taking into account the number of working days and inordinate delay in the matter and other facts the petitioner is held entitled for compensation to the tune ₹30,000/- (Rupees thirty thousand only). Issues no. 1 to 3 are decided accordingly.

14. The petition is held maintainable for the aforesaid reasons and the petitioner is held entitled for compensation as held hereinabove, hence this is also decided accordingly.

16. The reference is answered.

RELIEF

15. In view of my discussion on the above issues, it is held that though there had been violation of Section 25-G of the Act as well as inaction of the respondent in this case but the petitioner had raised demand after a gap of 08 years and his claim for reinstatement has been thus vitiated by delay and latches, hence reinstatement and other consequential benefits cannot be granted in his favour but he is held entitled for compensation to the tune of ₹30,000/- (Rupees thirty thousand only), which would be paid within four months by the respondent and from the date of receipt of Award failing which the respondent shall be liable to pay the interest @ 6% per annum on the said amount from the date of award till the date of its realization. Parties are left to bear their costs.

in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 20th day of June, 2022.

HANS RAJ,
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 287/2016
Date of Institution : 04-05-2016
Date of Decision : 21-06-2022

Shri Joginder Singh s/o Shri Rumal Chand, r/o Village Suliali, P.O. Sadwan, Tehsil Nurpur, District Kangra, H.P. (Through his legal heirs)

1. Smt. Roshani Devi (Wife)
2. Sh. Ajay Kumar (Son)
3. Sh. Sunny (Son)
4. Sh. Anil Kumar (Son)

...Petitioners.

Versus

1. The Executive Engineer, HPPWD Nurpur, Sub-Division Nurpur, District Kangra, H.P.
2. The Executive Engineer, HPPWD Jawali, Sub-Division Jawali, District Kangra, H.P.

...Respondents.

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner	: Shri S.D. Sharma, Ld. Adv.
For the Respondent(s)	: Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether alleged termination of services of Shri Joginder Singh, s/o Shri Rumal Chand, r/o Village Suliali, P.O. Suliali, Tehsil Nurpur, District Kangra, H.P. during October 1987 by (i) the Executive Engineer HPPWD Division Nurpur, District Kangra, H.P. (ii) the Executive Engineer, H.P.P.W.D. Jawali Division, Jawali, District Kangra, H.P., who has worked as beldar on daily wages basis and has raised his industrial dispute after more than 26 years, *vide* demand notice dated 24-11-2013 allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period of 98½ days during the period February, 1987 respectively and delay of more than 26 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. It may be stated at the very beginning that when reference was received, the petitioner was alive but before the statement of claim was filed he expired, and therefore, his legal heirs namely Smt. Roshani Devi wife and two sons Shri Ajay Kumar and Shri Sunny filed the claim petition on the averments that Shri Joginder Singh, the deceased, was engaged as a daily waged beldar in March, 1984 in Sub-Division Nurpur by the respondent and his services were disengaged verbally *w.e.f.* July, 1990 despite of the fact that he had completed 240 working days in every calendar year and the work was available with the respondent. The provisions of Section 25-F were not complied with. The petitioner has made verbal requests to the officers of the respondent and he was assured of his reinstatement within three-four days but he was put off every time on one or the other pretext and the workmen junior to him were retained. On such averments, the predecessor in interest of the petitioner have prayed for quashing of the disengagement order and for engagement of the legal heirs in place of the deceased and have also prayed for all the consequential benefits.

3. The respondent has resisted and contested the petition on the ground of delay and laches of more than 33 years. On merits, it is pleaded that the deceased petitioner had worked on daily wages in the year 1987 for total 98½ days and he was neither engaged in the year 1994 nor his service dispensed with in the year 1990 as pleaded. Other allegations are denied and it is submitted that deceased had left the work in October, 1987 of his own sweet will and had never approached the department till November, 2013.

4. No rejoinder was filed by the petitioners.

5. On the pleadings of the parties and the crux of the reference following issues were framed on 05.7.2021:—

- Whether the termination of the services of the petitioner Sh. Joginder Singh (now deceased) by the respondents in October, 1987 is/was illegal and unjustified, as alleged?
...OPP.
- If issue no.1 is proved in affirmative, to what service benefits the petitioners are entitled to?
...OPP.

3. Whether the claim petition is not maintainable, as alleged? ...*OPR.*

4. Whether the claim petition is bad on account of delay and laches, as alleged? ...*OPR.*

Relief.

6. I have heard learned counsel for the legal heirs of the deceased petitioner and learned Dy. D.A. for the respondents at length and considered the material on record.

7. For the reasons recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	: decided accordingly
Issue No. 2	: decided accordingly
Issue No. 3	: decided accordingly
Issue No. 4	: No
Relief	: Claim petition is dismissed per operative part of the Award

REASONS FOR FINDINGS

ISSUES No. 1, 2 and 4

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. The wife of the deceased petitioner namely Smt. Roshani Devi has appeared as PW1 in the witness box and filed her detailed affidavit Ext.PW1/A pleading therein the contents of the petition. She had been subject to cross-examination wherein she was denied her husband was engaged in the year 1987 and worked for 98½ days. She denied that her husband has voluntarily given up the work. On the other hand, Shri Janam Singh, Executive Engineer HPPWD has appeared in the witness box as RW1 and stated about the case accordingly. He was subjected to cross-examination wherein he specifically denied that deceased Joginder Singh had worked with the department till the year 1990. He tendered his affidavit as Ext. RW1/A. The mandays chart has been tendered by him as Ext.RW1/B showing that the petitioner had worked only in the year 1987 for 98½ days. It was put to him in the year 1990 many workers were disengaged by the department and they filed their cases in the year 2006 and they were ordered to be reinstated in the year 2010. This witness has pleaded his ignorance to such suggestion. He has specifically denied that this Joginder Singh approached the department for his reinstatement but nothing was done. He has pleaded his ignorance to the suggestion that a junior Smt. Kusum Lata was retained in the work after the petitioner was disengaged and later on her services were regularized. This witness pleaded ignorance to this suggestion as well. No seniority list has been tendered on the record to show as to how the junior persons have been retained and regularized. It was the duty of the respondents to have specifically denied the question but the witness examined by the respondent has pleaded ignorance to the suggestions that juniors were retained. Still in the absence of any seniority list placed on the record, it can not be inferred that the workmen junior to the deceased petitioner were retained and they have now been regularized.

10. The mandays chart proved on the record Ext. RW1/B shows that the petitioner has worked only for 98½ days in the year 1987 and he thereafter did not agitate the matter on time. The respondent department has although taken the plea of abandonment of work but no evidence has been led on that particular aspect. It is to be remember that the petitioner has approached the labour department by way of the demand notice after more than 25 years and thus inordinate delay

has been caused by him. Now the petitioner has already died and there is no question of reinstating him. Since evidence on abandonment of job is not led by the respondents yet the petitioner and his legal heirs have approached the court after more than 25 years and this delay has come in the way of grant of the relief of compensation. The petitioner has not even worked for 100 days and is granted. A person cannot be permitted to sleep over his right for more than 25 years and then approached the court and plead that his termination was wrong and he be either reinstatement or compensation to be paid to him. Inordinate delay defeats everything and the petitioner by a causing a delay of more than 25 years has himself frustrated the cause and since, the petitioner Joginder Singh has now died, therefore, there is no question of his reinstatement and since he has worked only for 98½ days therefore, the provisions of Section 25-F is not applicable.

11. Otherwise also, no seniority list of the employees has been proved on the record nor cogent evidence has been led to show that any workman junior to deceased petitioner was retained by the department at his cost. No document has been placed on the record to show that any other person was engaged by the department after him without giving him the priority. Thus there is no breach of the provisions contained in Sections 25-G and 25-H of the Act.

12. Thus, for the aforesaid reasons the petitioners have failed to prove that the services of deceased petitioner were terminated by the respondents without complying with the provisions of the Act. Thus the petitioners are neither entitled for compensation nor they are entitled for any other consequential benefits. The petition is also held to have suffered on account of delay and laches. Issues No. 1 and 2 are held against the petitioners and issues No.4 in favour of the respondent.

ISSUE No. 3

13. Since no violation of the provisions of Sections 25-F, 25-G and 25-H of the Act is established, therefore, the petitioner has no cause of action and the petition is not maintainable. Issue No.3 is answered in favour of the respondents.

RELIEF

14. In view of my above discussions, the present claim petition merits dismissal and is accordingly dismissed. Parties are left to bear their own costs.

15. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 21st day of June, 2022.

HANS RAJ,
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref No. : 60/2022

Date of Institution : 10-05-2022

Date of Decision : 28-06-2022

Shri Kamal Jeet s/o Shri Nataru Ram, r/o Village Thala, P.O. Kandi, Tehsil Palampur,
District Kangra, H.P. ...*Petitioner.*

Versus

The Factory Manager, M/s. Luminous Power Technologies Private Limited, Unit-4, Gagret,
Tehsil Amb, District Una, H.P. ...*Respondent.*

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : None

For the Respondent : Sh. Mukul Vaid, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether the termination of services of Shri Kamal Jeet s/o Shri Nataru Ram, r/o Village Thala, P.O. Kandi, Tehsil Palampur, District Kangra, H.P. by the Factory Manager, M/s Luminous Power Technologies Private Limited, Unit-4 Gagret, Tehsil Amb, District Una, H.P. *w.e.f.* 13-02-2019, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, to what amount of back wages, past service benefits, seniority and compensation the above worker is entitled to from the above employer/management?”

2. It may be stated here that the case was listed for appearance of the petitioner on 27.6.2022. Therefore, the petitioner appeared and submitted that he is not willing to pursue the reference and the petitioner has withdrawn the same. Statement of the petitioner has been recorded separately. Thus no evidence has been led by the petitioner in support of the allegations leveled by him. When there is no evidence in support of the averments made in the petition, the petition fails and the reference has to be answered in negative.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 27th day of June, 2022.

Announced:
28.06.2022

HANS RAJ,
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 156/2017
Date of Institution : 06-7-2017
Date of Decision : 27-06-2022

Shri Anil Kumar s/o Shri Gopal Singh, r/o Village Narwalka, P.O. Kamlah Fort, Tehsil Sandhole, District Mandi, H.P. ...Petitioner.

Versus

1. The Executive Engineer, I&PH Division, Sarkaghat, District Mandi, H.P.
2. The Pradhan/Secretary, Gram Panchayat Kamlah, Tehsil Sandhole, District Mandi, H.P. ...Respondents.

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri N.L.Kaundal, Ld. AR
For the Respondent No.1 : Shri Anil Sharma, Ld. Dy. D.A.
For the Respondent No.2 : Already *exparte*

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether termination of the services of Anil Kumar s/o Shri Gopal Singh, r/o Village Narwalka, P.O. Kamlah Fort, Tehsil Sandhole, District Mandi, H.P. during 15/16-04-2016 by (i) the Executive Engineer, I&PH Division, Sarkaghat, District Mandi, H.P. (ii) the Pradhan/Secretary, Gram Panchayat Kamlah, Tehsil Sandhole, District Mandi, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employers?”

2. The petitioner has pleaded in his statement of claim that his services were engaged by the Executive Engineer, I&PH Division Sarkaghat under the supervision of Assistant Engineer, I&PH Sub Division Dharampur through appointment letter given by Pradhan/Secretary, Gram Panchayat Kamlah vide resolution no.3 dated 20.10.2014 of concerned Gram Panchayat for the post of water guard under the scheme of LWSS Negui to Kheri. According to him, he resumed his duties *w.e.f.* 20.10.2014 and discharged the same to the satisfaction of the employer by working on the pump house for four hours every day. It is further submitted that the respondent has not made any payment to the petitioner for the work done by him, and, he was therefore, entitled to receive the past wages along-with interest @ 12 %. the further case of the petitioner has been to the effect that the resolution no. 3 dated 20.10.2014 was specifically passed by the working committee of the Kamlah Panchyat and it was resolved that as and when the Government decides to engage the water guard in I&PH Division Sarkaghat, then the petitioner shall be appointed against the said post. The petitioner used to work for four hours every day and register was maintained by Shri Pradeep Kumar (pump operator) regarding this fact. The grievance of the petitioner is that his services were discontinued *w.e.f.* 15.4.2016 without any notice and retrenchment compensation that

was required to be paid under Section 25-F of the Act was also not paid despite of the fact he had worked for more than 240 days before his unlawful termination. It is further alleged that one Shri Ramesh Kumar was appointed in his place and such an act amounted to unfair labour practice. On such averments, the petitioner had prayed that his termination be declared as illegal and the respondents be directed to reinstate his services with full back wages and continuity in service with all other consequential benefits.

3. The respondent no.1 has resisted and contested the petition and taken the plea that it was not maintainable as petitioner was neither engaged nor paid by respondent no.1. It is stated that a resolution dated 20.10.2014 was received from the respondent no.2 and the petitioner was infact engaged by respondent no.2 as Jal Rakshak and he was not engaged as a water guard under the scheme of Lift Water Supply Scheme Nagani Kheri by the respondent no.2. The respondent no.1 has further pleaded that since the petitioner has not worked with it, and therefore, question of making payment to him and the question of disengaging his services as claimed by the petitioner does not arise at all. It is pleaded that the petitioner along-with other candidates had applied for the post of Jal Rakshak (purely on temporary basis) and interview was conducted on 11.03.2016 and one Shri Ramesh Kumar was selected. Thereafter MOU was signed between department and respondent no.2. It is submitted that petitioner has no case and the same, be therefore, dismissed.

4. The respondent no.2 has also resisted and contested the petition on the plea that it was not maintainable and petitioner had no case at all. On merits, the resolution no.3 dated 20.10.2014 is admitted but it is clarified that it was recommended that whenever the post of water guard shall be filled up by the Government then the claim of the petitioner may be considered for the same. The respondent no.2 has further submitted that no record was maintained by the Panchayat regarding the petitioner. It is submitted that the petition be dismissed.

5. The petitioner has filed rejoinder to the reply of respondent no.1 and reaffirmed the averments so made in the claim petition and denied those made in the reply. Similar rejoinder has been filed to the reply filed by respondent no.2.

6. On the pleadings of the parties and the crux of the reference following issues were framed on 02.7.2018:—

1. Whether the termination of the services of the petitioner by the respondents during 15/16-04-2016 is/was legal and justified as alleged? ...*OPP*.
2. If issue no.1 is proved in affirmative to what service benefits the petitioner is entitled to? ...*OPP*.
3. Whether the claim petition is not maintainable in the present form as alleged? ...*OPR 1&2*.
4. Whether the petitioner has not approached the Court with clean hands as alleged? ...*OPR 2*.
5. Whether this court has no jurisdiction to file the present case as alleged? ...*OPR 2*.
6. Whether the petition is bad for non-joinder and mis-joinder of the necessary parties as alleged? ...*OPR 2*.

Relief.

7. I have heard learned Authorized Representative for the petitioner and learned Dy.D.A. for the respondent no.1 at length and considered the material on record. It may be stated here that the respondent no. 2 was proceeded against exparte at the later stage and no evidence was led on its behalf.

8. For the reasons recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	: decided accordingly
Issue No. 2	: decided accordingly
Issue No. 3	: No
Issue No. 4	: Negative
Issue No. 5	: Negative
Issue No. 6	: Negative
Relief	: Petition is dismissed per operative portion of the Award

REASONS FOR FINDINGS

ISSUES No. 1 to 6

9. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

10. The petitioner has referred to a resolution no.3 dated 20.10.2014 of Gram Panchayat Kamlah and stated that appointment was given to him through this resolution by Panchayat/ Secretary, Gram Panchayat Kamlah and his services were engaged by Executive Engineer, I&PH Division Sarkaghat. This resolution has not been filed and proved on the record to make this court to analyze the contents of the same. The petitioner himself has averred that his services were engaged for four hours every day *w.e.f.* 21.10.2014 to 15/16.4.2016. A person, who is engaged for four hours a day is not a daily wager but such engagement is known as part-time worker. A part-time worker cannot be equated with daily wager and no muster is issued to part-time worker and it can not be said that he had worked for the whole day. A part-time worker is paid in accordance with the actual working hours. Such part-timer does not fall within the definition of daily wager as a part-timer is converted into daily wager as per the policies of the Government after completion of requisite number of years. When the petitioner himself submits that he was suppose to work for four hours a day, he has himself demolished his case as he has himself divested him of his status of a daily wager. In case, he was a daily wager then he had worked for whole day and not for four hours only. Once the case of the petitioner is to the effect that he was working for four hours per day only he can not be said to have worked for more than 240 days and section 25 F is not applicable in such a case as the provisions of Section 25-F of the Act is not applicable in case of part-time workers.

11. The respondent no.1 has even denied that the petitioner had worked with it as part-time worker and was paid accordingly. Thus the onus was on the petitioner to prove this fact even prima-facie. No witness has been examined by the petitioner to prove this fact. No document either from the records of the Panchayat or from the office of Executive Engineer has been placed on the record to show that the petitioner was paid out of Government money. The petitioner has rather has come up with the plea that nothing was paid to him *w.e.f.* 21.10.2014 to 15/16.4.2016. he has claimed that he was, therefore, entitled to wages for the aforesaid period along-with interest @ 12% per annum. It is thus very strange that the petitioner worked without being paid for a period around 1.5 years. All these pleadings itself suggest that the petitioner has come up with a cock and bull story and his case is not supported by any documents. Had the petitioner had been actually working

in the manner as alleged some document should have been prepared in the office of the respondent no.1. Rather, it is said that the resolution no.3 was to the effect that whenever the post of water guard shall be filled up under the LWSS scheme, the petitioner be appointed against the post. It shows that an attempt was being made to secure employment for the petitioner in the government sector through back door and for this reason a resolution was passed in the year 2014 whereby it was resolved that whenever post shall be filled up, the petitioner shall be offered the work. Such backdoor entry in the public employment has always been discouraged and deprecated by the courts. The petitioner can not get any right by obtaining such a resolution from the Panchayat. Had the petitioner been paid from the public funds at point of time, the court could presume that he had infact worked with the respondent no.1. The petitioner himself states that he was not paid for the work done by him. Such a case is very doubtful as no person will worked without payment for more than 1.5 years. If the reply filed by the respondent is carefully examined it becomes clear that interviews were taken at the latter stage after the post was properly advertised. One Shri Ramesh Kumar was selected for that post and was given appointment. He was presently working on that post. It also becomes clear that even the petitioner has appeared as a candidate for the post. Although no evidence has been led by the respondent yet these facts are not been denied by the petitioner and certain documents are already on the record to these effect. The self serving statement of the petitioner in the shape of his affidavit Ext. PW1/A is not sufficient to prove that he had worked with the respondent no.1 for four hours every day *w.e.f.* 21.10.2014 to 15/16.4.2016 and thereafter his services were terminated as it is his case himself that not even a single rupee was paid to him during aforesaid period. His alleged engagement comes under grave doubt. In his cross-examination, the petitioner has denied the suggestions to the contrary but the evidence led by the petitioner is not sufficient to hold that he was a daily wager and his termination took place without notice. There is no material on the record to prove that he had worked for minimum 240 days in a calendar year before his alleged termination. When he himself has come up with the case that he was a part-time worker he cannot be treated as daily wager and the provisions contained in Section 25-F of the Act are not applicable. It is therefore, held that the services of the petitioner were not terminated illegally as claimed by him. He is thus held not entitled for any relief, hence, the issues no. 1 to 3 are decided accordingly. The petition is held maintainable for the reason that a reference has been received by the court and such reference has to be supported by the claim. Thus claim could be filed and it is different matter that the claim has failed to stand the judicial scrutiny. No evidence has been led on issues no.4, 5 and 6 by the respondent, and therefore, these issues are held against them.

RELIEF

12. In view of my above discussions, the present claim petition merits dismissal, and is accordingly dismissed. Parties are left to bear their own costs.

13. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 27th day of June, 2022.

HANS RAJ,
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA**

Ref. No. : 55/2022
Date of Institution : 10-05-2022
Date of Decision : 28-06-2022

Shri Ajay Kumar s/o Shri Mashpal Singh, r/o VPO Ambota, Tehsil Amb, District Una, H.P.
...*Petitioner.*

Versus

The Factory Manager, M/s Luminous Power Technologies Private Limited, Unit-4, Gagret,
Tehsil Amb, District Una, H.P. ...*Respondent.*

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : None
For the respondent : Sh. Mukul Vaid, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether the termination of services of Shri Ajay Kumar s/o Shri Mashpal Singh, r/o V.P.O. Ambota, Tehsil Amb, District Una, H.P., by the Factory Manager, M/s Luminous Power Technologies Private Limited, Unit-4, Gagret, Tehsil Amb, District Una, H.P. *w.e.f.* 14-02-2019, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, to what amount of back wages, past service benefits, seniority and compensation the above worker is entitled to from the above employer/management?”

2. It may be stated here that the notice was issued to the petitioner for 27-6-2022 which was served upon him. Despite of this, the petitioner did not appear before this Court. Since there are neither pleadings nor evidence in support of the reference, the reference is answered in negative. Parties are left to bear their costs.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 28th day of June, 2022.

Announced:
28-06-2022

HANS RAJ,
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA**

Ref. No. : 56/2022
Date of Institution : 10-05-2022
Date of Decision : 28-06-2022

Shri Anuj Sharma s/o Shri Jagmohan Sharma, r/o V.P.O. Indpur, Tehsil Indora, District Kangra, H.P. ...Petitioner.

Versus

The Factory Manager, M/s Luminous Power Technologies Private Limited, Unit-4, Gagret, Tehsil Amb, District Una, H.P. ...Respondent.

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : None
For the respondent : Sh. Mukul Vaid, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether the termination of services of Shri Anuj Sharma s/o Shri Jagmohan Sharma, r/o V.P.O. Indpur, Tehsil Indora, District Kangra, H.P. by the Factory Manager, M/s Luminous Power Technologies Private Limited, Unit-4, Gagret, Tehsil Amb, District Una, H.P. *w.e.f.* 14-02-2019, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, to what amount of back wages, past service benefits, seniority and compensation the above worker is entitled to from the above employer/management?”

2. It may be stated here that the notice was issued to the petitioner for 27-6-2022 which was served upon him through his father who live together at home. Despite of this, the petitioner did not appear before this Court. Since there are neither pleadings nor evidence in support of the reference, the reference is answered in negative. Parties are left to bear their costs.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 28th day of June, 2022.

Announced: 28-06-2022

HANS RAJ,
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA**

Ref. No. : 57/2022
Date of Institution : 10-05-2022
Date of Decision : 28-06-2022

Shri Deepak Bhardwaj s/o Shri Tara Chand, r/o V.P.O. Karoa, Tehsil Dehra, District Kangra, H.P. ...Petitioner.

Versus

The Factory Manager, M/s Luminous Power Technologies Private Limited, Unit-4, Gagret, Tehsil Amb, District Una, H.P. ...Respondent.

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : None
For the respondent : Sh. Mukul Vaid, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether the termination of services of Shri Deepak Bhardwaj s/o Shri Tara Chand, r/o V.P.O. Karoa, Tehsil Dehra, District Kangra, H.P. by the Factory Manager, M/s Luminous Power Technologies Private Limited, Unit-4, Gagret, Tehsil Amb, District Una, H.P. w.e.f. 15-02-2019, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, to what amount of back wages, past service benefits, seniority and compensation the above worker is entitled to from the above employer/management?”

2. It may be stated here that the notice was issued to the petitioner for 27.6.2022 which was served upon him and as per report the petitioner (Sh. Deepak Bhardwaj) submitted that he is not willing to pursue the reference further. Despite of this, the petitioner did not appear before this Court. Since there are neither pleadings nor evidence in support of the reference, the reference is answered in negative. Parties are left to bear their costs.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 28th day of June, 2022.

Announced: 28-06-2022

(HANS RAJ)
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA**

Ref. No. : 58/2022
Date of Institution : 10-05-2022
Date of Decision : 28-06-2022

Shri Vishal Kumar s/o Shri Mohan Lal, r/o V.P.O. Nangal Jaryalan, Ward No.6, Tehsil Ghanari, District Una, H.P. ...Petitioner.

Versus

The Factory Manager, M/s Luminous Power Technologies Private Limited, Unit-4, Gagret, Tehsil Amb, District Una, H.P. ...Respondent .

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : None
For the respondent : Sh. Mukul Vaid, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether the termination of services of Shri Vishal Kumar s/o Shri Mohan Lal, r/o V.P.O. Nangal Jaryalan, Ward No.6, Tehsil Ghanari, District Una, H.P. by the Factory Manager, M/s Luminous Power Technologies Private Limited, Unit-4, Gagret, Tehsil Amb, District Una, H.P. *w.e.f.* 14-02-2019, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, to what amount of back wages, past service benefits, seniority and compensation the above worker is entitled to from the above employer/management?”

2. It may be stated here that the notice was issued to the petitioner for 27-6-2022 which was served upon him through his mother. Despite of this, the petitioner did not appear before this Court. Since there are neither pleadings nor evidence in support of the reference, the reference is answered in negative. Parties are left to bear their costs.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 28th day of June, 2022.

Announced: 28-06-2022

HANS RAJ,
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 103/2020
Date of Institution : 19-11-2020
Date of Decision : 28-06-2022

Shri Deepak Kumar Saini s/o late Shri Sewa Ram Saini, r/o VPO Beharigarh, District Saharanpur, U.P. ...Petitioner.

Versus

The Managing Director/Employer, M/S Asterisk Healthcare, V.P.O. Bathri, Tehsil Haroli, District Una, H.P. ...Respondent.

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : None for the petitioner
For the Respondent : Sh. Ankur Soni, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether the termination of services of Shri Deepak Kumar Saini s/o Late Shri Sewa Ram Saini, r/o V.P.O. Beharigarh, District Saharanpur, U.P. *w.e.f.* 01-12-2019 by the Managing Director/Employer, M/s Asterisk Healthcare, V.P.O. Bathri, Tehsil Haroli, District Una, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/Management?”

2. It may be stated here that the notice was issued to the petitioner namely Shri Deepak Kumar Saini for 30-5-2022 but in between application of the petitioner dated 03-5-2002 was received by this court on 10-05-2022 which is placed on record wherein the petitioner has mentioned that he is unable to appear before this court due to his bad financial condition. It is further mentioned in the application that he wants to withdraw the present case and does not want to further pursue the same, hence, the contents of the letter dated 03-5-2012 be read as withdrawal statement of the petitioner. Since there is withdrawal statement of the petitioner in support of the reference, the reference is answered in negative. Parties are left to bear their costs.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 28th day of June, 2022.

HANS RAJ,
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 41/2020
Date of Institution : 02-03-2020
Date of Decision : 28-06-2022

Smt. Arti w/o Shri Bindu, r/o Village Gagla, P.O. Mehla, Tehsil & District Chamba, H.P.
...*Petitioner.*

Versus

1. The Principal, Government Pandit Jawahar Lal Nehru Medical College & Hospital, Chamba, District Chamba, H.P.

2. The Director, M/s IL & FS Human Resources Limited Government Pandit Jawahar Lal Nehru Medical College & Hospital Chamba, District Chamba, H.P. ...*Respondents.*

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner	: None for the petitioner
For Respondent No.1	: Smt. Pooja Sharma, Ld. Adv.
For Respondent No.2	: Smt. Himakshi Gautam, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether the termination of services of Smt. Arti w/o Shri Bindu, r/o Village Gagla, P.O. Mehla, Tehsil & District Chamba, H.P. by (i) the Principal, Government Pandit Jawahar Lal Nehru Medical College & Hospital, Chamba, District Chamba, H.P. (ii) the Director, M/s IL & FS Human Resources Limited Government Pandit Jawahar Lal Nehru Medical College & Hospital Chamba, District Chamba, H.P., *w.e.f.* 01-06-2019, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, compensation and past service benefits the above worker is entitled to from the above employers?”

2. It may be stated here that the notice was issued to the petitioner for 24-6-2022 which was served upon her through her husband. Despite of this, the petitioner did not appear before this Court. Since there are neither pleadings nor evidence in support of the reference, the reference is answered in negative. Parties are left to bear their costs.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 28th day of June, 2022.

HANS RAJ,
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 41/2020
Date of Institution : 02-03-2020
Date of Decision : 28-06-2022

Smt. Arti w/o Shri Bindu, r/o Village Gagla, P.O. Mehla, Tehsil & District Chamba, H.P.
...*Petitioner.*

Versus

1. The Principal, Government Pandit Jawahar Lal Nehru Medical College & Hospital, Chamba, District Chamba, H.P.

2. The Director, M/s IL & FS Human Resources Limited Government Pandit Jawahar Lal Nehru Medical College & Hospital Chamba, District Chamba, H.P. ...*Respondents.*

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner	: None for the petitioner
For Respondent No.1	: Smt. Pooja Sharma, Ld. Adv.
For Respondent No.2	: Smt. Himakshi Gautam, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether the termination of services of Smt. Arti w/o Shri Bindu, r/o Village Gagla, P.O. Mehla, Tehsil & District Chamba, H.P. by (i) the Principal, Government Pandit Jawahar Lal Nehru Medical College & Hospital, Chamba, District Chamba, H.P. (ii) the Director, M/s IL & FS Human Resources Limited Government Pandit Jawahar Lal Nehru Medical College & Hospital Chamba, District Chamba, H.P., *w.e.f.* 01-06-2019, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, compensation and past service benefits the above worker is entitled to from the above employers?”

2. It may be stated here that the notice was issued to the petitioner for 24-6-2022 which was served upon her through her husband. Despite of this, the petitioner did not appear before this Court. Since there are neither pleadings nor evidence in support of the reference, the reference is answered in negative. Parties are left to bear their costs.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 28th day of June, 2022.

HANS RAJ,
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 105/2020
Date of Institution : 19-11-2020
Date of Decision : 03-06-2022

Shri Jasbir Singh Dehal, r/o V.P.O. Sanoli, Tehsil Haroli, District Una, H.P. ...*Petitioner.*

Versus

The Managing Director/Employer, M/s Asterisk Healthcare, V.P.O. Bathri, Tehsil Haroli,
District Una, H.P. ...*Respondent.*

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : None for the petitioner

For the Respondent : Sh. Ankur Soni, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether the termination of services of Shri Jasbir Singh Dehal, r/o V.P.O. Sanoli, Tehsil Haroli, District Una, H.P. *w.e.f.* 22-07-2020 by the Managing Director/Employer, M/s Asterisk Healthcare, V.P.O. Bathri, Tehsil Haroli, District Una, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. It may be stated here that the notices were issued to the legal heirs namely Smt. Jasbir Kaur (wife) and Mr. Sumreet Singh Dehal (son) of deceased petitioner for 23-05-2022 which were duly served upon them. Despite of this, the aforementioned legal heirs of deceased petitioner did not appear before this Court. Since there are neither pleadings nor evidence in support of the reference, the reference is answered in negative. Parties are left to bear their costs.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 3rd day of June, 2022.

HANS RAJ,
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 52/2021
Date of Institution : 03-08-2021
Date of Decision : 15-06-2022

Shri Raj Kumar s/o Shri Balwant Singh, r/o Village Kaseti, P.O. Muhal, Tehsil Dehra,
District Kangra, H.P. ...Petitioner.

Versus

The Project Director, Him Institute for Rural Development TI, Office Near Petrol Pump,
VPO Khola, Tehsil Jawalamukhi, District Kangra, H.P. ...Respondent.

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : None for the petitioner

For the Respondent : Shri Puneet Tanu, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether the termination of services of Shri Raj Kumar S/o Shri Balwant Singh, r/o Village Kaseti, P.O. Muhal, Tehsil Dehra, District Kangra, H.P. during September, 2020 by the Project Director, Him Institute for Rural Development TI, Office Near Petrol Pump, V.P.O. Khola, Tehsil Jawalamukhi, District Kangra, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. It may be stated here that the notice was issued to the petitioner for 15-06-2022 which was served upon him through his wife as per report. Despite of this, the petitioner did not appear before this Court. Since there are neither pleadings nor evidence in support of the reference, the reference is answered in negative. Parties are left to bear their costs.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 15th day of June, 2022.

HANS RAJ,
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)
(CAMP AT CHAMBA)**

Ref. No. : 26/2020
Date of Institution : 02-03-2020
Date of Decision : 24-06-2022

Shri Jarmo s/o Shri Machlu Ram, r/o Village Sakral, P.O. Brehi, Tehsil & District Chamba,
H.P. ...Petitioner.

Versus

1. The Principal, Government Pandit Jawahar Lal Nehru Medical College & Hospital,
Chamba, H.P.

2. The Director, M/s IL & FS Human Resources Limited Government Pandit Jawahar Lal
Nehru Medical College & Hospital, Chamba, H.P. ...Respondents.

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Petitioner in person
For the Respondent No.1 : Smt. Pooja Sharma, Ld. Adv.
For the Respondent No.2 : Smt. Himakshi Gautam, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether the termination of services of Shri Jarmo s/o Shri Machlu Ram, r/o Village Sakral, P.O. Brehi, Tehsil & District Chamba, H.P. by (i) the Principal, Government Pandit Jawahar Lal Nehru Medical College & Hospital, Chamba, District Chamba, H.P. (ii) the Director, M/s IL & FS Human Resources Limited Government Pandit Jawahar Lal Nehru Medical College & Hospital Chamba, District Chamba, H.P. *w.e.f.* 01-06-2019, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, compensation and past service benefits the above worker is entitled to from the above employers?”

2. Today the case is listed for appearance of the petitioner. He (petitioner) appeared and submitted that he is not willing to pursue the reference and the petitioner has withdrawn the same. Statement of the petitioner has been recorded separately. Thus no evidence has been led by the petitioner in support of the allegations leveled by him. When there is no evidence in support of the averments made in the petition, the petition fails and the reference has to be answered in negative.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 24th day of June, 2022.

Announced:
24-06-2022

HANS RAJ,
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

राजस्व विभाग

अधिसूचना

शिमला-02, 23 अगस्त, 2022

संख्या: राजस्व-घ(एफ)4-9/2020-(बिलासपुर).—हिमाचल प्रदेश भू-अभिलेख नियमावली, 1992 के पैरा 3.17 एवम् 3.18 में वर्णित/निर्दिष्ट प्रावधानों/मानकों में छूट देते हुए राज्यपाल, हिमाचल प्रदेश तहसील बिलासपुर, जिला बिलासपुर के अन्तर्गत पटवार वृत्त छकोह, सोलधा व धूणी पंजैल का विघटन/पुनर्गठन करके एक नये पटवार वृत्त शिकरोहा का अनुलग्नक 'क' में दिये गए विवरण अनुसार खोलने/सृजन करने का सहर्ष आदेश देते हैं। इस पटवार वृत्त हेतु एक पद पटवारी वेतनमान मु0 20,200-64000/-(Level-3), मांग संख्या: 5, मुख्यशीर्ष-2029-00-103-04 (गैर-योजना) एवं एक पद अंशकालिक कार्यकर्ता (Part time worker) के सृजन की भी स्वीकृति प्रदान की जाती है।

आदेश द्वारा,

ओंकार चन्द शर्मा,
प्रधान सचिव एवं वित्तायुक्त (राजस्व)।

अनुबन्ध- 'क'

नव सृजित पटवार वृत्त शिकरोहा की स्थिति

पटवार वृत्त	क्रम संख्या	नाम गांव मय हदबस्त नम्बर	कुल खेवट	खतौनी	कुल खसरा न0 व कित्ता	कुल रकबा बीघा में	मजरूआ	गैर मजरूआ	माल
शिकरोहा	1.	शकरोहा/66	70	80	337	1094-12	346-12	748-00	101.91
	2.	जनेड/64	50	61	398	1368-11	367-12	10009-19	128.99
	3.	गलोड/65	60	78	255	802-18	290-02	512-16	139.74
	4.	सिल्हा/14	89	105	398	2013-07	552-11	1461-02	361.18
	5.	साई नोडवा/15	52	94	340	1233-07	512-04	721-03	182.33
	6.	चान्दपुर/82	102	130	795	1589-12	576-18	1012-14	293.47
	7.	पन्जैहली/67	29	35	105	568-13	190-18	377-15	75.16
	8.	चम्यारा/83	63	99	295	676-15	288-06	388-09	83.36
कुल जोड़.. 8			151	682	2923	9348-01	3125-03	6222-18	1366.14

विघटन/पुनर्गठन उपरान्त तहसील बिलासपुर के अन्तर्गत पटवार वृत्त छकोह व सोलधा तथा उप-तहसील नम्होल के अन्तर्गत पटवार वृत्त धूणी पंजैल की स्थिति।

पटवार वृत्त	क्रम संख्या	नाम गांव मय हदबस्त नम्बर	कुल खेवट	खतौनी	कुल खसरा न0 व कित्ता	कुल रकबा बीघा में	मजरूआ	गैर मजरूआ	माल
छकोह	1.	समोग कनैता/68	51	61	204	494-19	242-17	252-02	159.53
	2.	समोग ब्राह्मणा/69	37	46	182	582-18	201-01	381-17	95.18

3.	छकोह / 70	156	178	549	1637-19	673-11	964-08	616.54
4.	क्यारन / 78	51	58	250	566-14	299-13	267-01	237.78
5.	चाम्बी / 77	40	44	155	440-11	137-04	303-07	105.03
6.	मैस / 76	64	73	273	1076-03	311-01	765-02	143.59
7.	थाच / 75	90	113	321	895-01	178-05	716-16	149.06
8.	कोठीहरडी / 71	38	42	140	656-03	248-03	408-00	111.99
9.	मलोखर / 74	116	202	555	3802-02	754-08	3047-14	360.00
10.	चढाहू / 73	39	52	178	670-07	157-07	513-00	116.94
11.	मलोथी / 72	116	189	660	4465-13	705-08	3760-05	508.90
कुल जोड़.. 11		848	1058	3467	15287-13	3908-00	11379-13	2604.49

पटवार वृत्त	क्रम संख्या	नाम गांव मय हदबस्त नम्बर	कुल खेवट	खतौनी	कुल खसरा न० व कित्ता	कुल रकबा बीघा में	मजरुआ	गैर मजरुआ	माल
सोलधा	1.	गुरौड / 89	50	60	275	591-17	249-19	341-18	156.34
	2.	घमराडा / 88	118	137	660	1950-07	728-01	1222-06	372.44
	3.	घेरटा / 79	43	60	245	431-13	197-15	233-18	107.69
	4.	सोलधा / 80	99	116	458	2174-9	495-11	1678-18	216.45
	5.	बागफुगलाटा / 81	80	95	465	1030-00	332-08	697-12	191.29
	6.	भोजपुर / 84	65	81	165	809-11	405-02	404-09	91.34
कुल जोड़.. 6			474	563	2304	6987.17	2408-16	4579-01	1135.55

पटवार वृत्त	क्रम संख्या	नाम गांव मय हदबस्त नम्बर	कुल खेवट	खतौनी	कुल खसरा न० व कित्ता	कुल रकबा बीघा में	मजरुआ	गैर मजरुआ	माल
धूणी पंजैल	1.	सोहरी / 17	95	122	477	1053-03	381-16	673-07	167.46
	2.	गौहटा / 16	22	26	112	485-05	281-06	203-19	129.61
	3.	बाग कलां / 18	88	107	366	836-19	415-09	421-10	190.91
	4.	नेरी / 60	12	15	52	495-07	111-07	384-00	46.23
	5.	बैहली / 61	41	59	162	955-09	317-12	637-17	128.89
	6.	बाडनू / 59	92	104	534	1672-18	881-18	791-00	200.44
	7.	पंजैल कलां / 20	46	51	305	1021-01	405-03	615-18	236.09
	8.	पंजैल खुर्द / 63	48	58	302	1352-09	221-19	1130-100	208.96
	9.	पट्टा नोडूवां / 19	17	19	149	239-01	138-04	100-17	66.27
	10.	चन्जोटा / 62	42	49	207	933-19	222-05	711-14	156.14
	11.	ठलैला / 21	23	27	92	582-18	153-07	429-11	81.37
कुल जोड़.. 11			526	637	2758	9630-09	3530-06	6100-03	1612.37

राजस्व विभाग

आदेश

शिमला-02, 25 अगस्त, 2022

संख्या: राजस्व-घ(एफ) 4-4/2015-लूज (शिमला).—हिमाचल प्रदेश भू-अभिलेख नियमावली, 1992 के अध्याय-3, के पैरा 3.21 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैं, ओंकार चन्द शर्मा, प्रधान सचिव एवं वित्तायुक्त (राजस्व) हिमाचल प्रदेश सरकार, उप-तहसील देहा के अन्तर्गत पटवार वृत्त बासाधार से महाल किशौर व पटवार वृत्त टिक्कर से महाल नोली को अपवर्जित/निकालकर पटवार वृत्त कुठार, उप-तहसील देहा, जिला शिमला में शामिल/समायोजित करने का अनुबन्ध 'क' में दिये गये विवरण अनुसार सहर्ष आदेश देता हूँ।

इस फेरबदल (alteration) उपरान्त पटवार वृत्त बासाधार में कुल महालात-6, टिक्कर में कुल महालात-6 तथा पटवार वृत्त कुठार में कुल महालात-9 हो जायेंगे।

हस्ताक्षरित /—
(ओंकार चन्द शर्मा),
प्रधान सचिव एवं वित्तायुक्त (राजस्व)।

अनुबन्ध 'क'

महाल किशौर को पटवार वृत्त बासाधार तथा महाल नोली को पटवार वृत्त टिक्कर, उप-तहसील देहा से निकालकर पटवार वृत्त कुठार, उप-तहसील देहा में शामिल करने पर पटवार वृत्त कुठार, बासाधार व टिक्कर की स्थिति निम्न प्रकार से होगी:—

पटवार वृत्त बासाधार (उप-तहसील देहा) की स्थिति

क्र० सं०	नाम महाल	खसरा नम्बरान
1.	जंगल बावर	1
2.	बडोग	693
3.	बासाधार	591
4.	कलावन	634
5.	बागना	698
6.	चाखना	924
जोड़..		3541

पटवार वृत्त टिक्कर (उप-तहसील देहा) की स्थिति

क्र० सं०	नाम महाल	खसरा नम्बरान
1.	कनौडी	571
2.	बडोग	712
3.	टिक्कर	713
4.	उप-महाल कुच	660
5.	उप-महाल नैरी	528
6.	उप-महाल मान्दल	858
जोड़..		4042

पटवार वृत्त कुठार (उप-तहसील देहा) की स्थिति

क्र० सं०	नाम महाल	खसरा नम्बरान
1.	कुठार	1058
2.	धलाणा	652
3.	बनेहा	968
4.	देवठी	1038
5.	उप-महाल शाए	1094
6.	पुन्दर	1110
7.	उप-महाल बाला	525
8.	किशौर	1161
9.	नोली	527
जोड़..		8133

राजस्व विभाग

अधिसूचना

शिमला-02, 25 अगस्त, 2022

संख्या: राजस्व-घ(ए) 1-6 / 2022-(मण्डी).—हिमाचल प्रदेश भू-अभिलेख नियमावली, 1992 के पैरा 2.5 में वर्णित/निर्दिष्ट प्रावधानों/मानकों में छूट देते हुए राज्यपाल, हिमाचल प्रदेश तहसील चच्योट, जिला मण्डी के अन्तर्गत वर्तमान कानूनगो वृत्त स्यांज का विघटन/पुनर्गठन करते हुए 1 नये कानूनगो वृत्त केलोधार का सृजन, इसमें निम्नलिखित पटवार वृत्तों को सम्मिलित करते हुए तुरन्त प्रभाव से करने का सहर्ष आदेश देते हैं:—

क्रम संख्या	नव-सृजित कानूनगो वृत्त केलोधार में सम्मिलित पटवार वृत्तों के नाम	नव-सृजित कानूनगो वृत्त केलोधार के सृजन उपरान्त कानूनगो वृत्त स्यांज में सम्मिलित पटवार वृत्तों के नाम
1.	थरजूण (केलोधार)	धरोट धार
2.	परवाडा	बस्सी
3.	बाडा	स्यांज
4.	स्रोआ	नाडी
5.	तान्दी	गढवार

राज्यपाल, हिमाचल प्रदेश इस कानूनगो वृत्त हेतु एक पद कानूनगो वेतनमान मु० 29,700-94100/- (Level-8) मांग संख्या: 5, मुख्यशीर्ष-2029-00-103-04 (गैर-योजना) तथा एक पद अंशकालिक कार्यकर्ता (Part-time worker) का भी सृजित करने की स्वीकृति प्रदान करते हैं।

आदेश द्वारा,

ओंकार चन्द शर्मा,
प्रधान सचिव एवं वित्तायुक्त (राजस्व)।

गृह विभाग

अधिसूचना

शिमला-2, 24 अगस्त, 2022

संख्या: गृह(ए)ए(1)-19/2021.—हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश पुलिस अधिनियम, 2007 (2007 का अधिनियम संख्यांक 17) की धारा 11 की उपधारा (1) के साथ पठित, दण्ड प्रक्रिया संहिता, 1973 (1974 का अधिनियम संख्यांक 2) की धारा 2 के खण्ड (ध) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पुलिस महानिदेशक हिमाचल प्रदेश के परामर्श से, इस अधिसूचना के राजपत्र (ई-गजट), हिमाचल प्रदेश में प्रकाशित किए जाने की तारीख से पुलिस चौकी रिवालसर को पुलिस थाना के रूप में स्तरोन्नत करते हैं, और नीचे दी गई अनुसूची की स्तम्भ संख्या: (3) में यथा वर्णित गांवों को स्तम्भ संख्या: (4) में वर्णित पुलिस थाना के स्थानीय क्षेत्रों से स्तम्भ संख्या: (5) में वर्णित नवसृजित पुलिस थाना के स्थानीय क्षेत्रों में अन्तरित करते हैं, अर्थात् :-

अनुसूची

क्रम संख्या	ग्राम पंचायतों / नगर पंचायतों का नाम	स्तम्भ संख्या 2 में विनिर्दिष्ट ग्राम पंचायतों / नगर पंचायतों में अन्तर्विष्ट गांवों के नाम	पुलिस थाना, जिससे इस अधिसूचना द्वारा अन्तरित किए जाने हैं	पुलिस थाना, जिसमें इस अधिसूचना के पश्चात् सम्मिलित होंगे
1	2	3	4	5
1.	नगर-पंचायत रिवालसर	1. हवाणी 2. जोल 3. देहरी गलु	पुलिस थाना, बल्ह	पुलिस थाना, रिवालसर
2.	ग्राम पंचायत रिवालसर	1. ग्राउडु 2. चहडी 3. लेहडा 4. डोह 5. धार-1 6. धार-2 7. हवाणी-गलु	—यथोपरि—	—यथोपरि—
3.	रियूर	1. सुक्का रियूर 2. रियूर 3. गरलौणी 4. चलहर 5. मझयाली 6. मझवाड 7. बडागांव 8. ठारा 9. घौड 10. साफडु	—यथोपरि—	—यथोपरि—
4.	कोठी-गैहरी	1. कोठी-गैहरी 2. बटाहण 3. खील 4. रखेहड 5. बागलु	—यथोपरि—	—यथोपरि—

		6. फाटलु 7. गम्भर—खड्ड 8. कपाहडी 9. राकड		
5.	दुसरा—खाबु	1. दुर्गापुर 2. दुसरा—खाबु 3. सेरला—खाबु 4. कुट 5. करनेहड 6. दर	—यथोपरि—	—यथोपरि—
6.	सिध्याणी	1. डिम्भरी 2. भौत 3. सिध्याणी 4. नौणधार 5. सदेहडा 6. लखवाण	—यथोपरि—	—यथोपरि—
7.	समलौण	1. थाना 2. खखरियाना 3. गन्धो 4. समलौण 5. मलहणी 6. पाथा 7. छगैहड 8. घिंयुधार 9. पन्याली	—यथोपरि—	—यथोपरि—
8.	बरस्वाण	1. रोपडी 2. पन्याली 3. रपेड 4. फतेहपुर 5. बरस्वाण 6. लरवाहणी 7. पनौलु 8. समाहणी	—यथोपरि—	—यथोपरि—
9.	बैरकोट	1. लेदा 2. सलापड 3. सिकन्दरा 4. घरवासडा 5. सागण	—यथोपरि—	—यथोपरि—
10.	कोठी	1. सिद्ध—कोठी 2. कोठी 3. समाहणी 4. समलेहड 5. गुरकोठा 6. झमराणी	—यथोपरि—	—यथोपरि—

11.	बैरी	1. क्वालकोट 2. बैरी 3. मनसाई 4. प्लाही 5. गन्त्रोहल 6. मैरामसीत 7. टिकरी 8. अन्दरेटा 9. वीणा 10. कथवाड	—यथोपरि—	—यथोपरि—
12.	हल्यातर	1. हल्यातर 2. सरुआ 3. मझयाठ 4. बुराहली 5. मुरारी—देवी 6. घरवासडा	—यथोपरि—	—यथोपरि—
13.	लुहारडी	1. डुलग 2. बनौण 3. लुहारडी 4. धार 5. घुराणु	—यथोपरि—	—यथोपरि—
14.	कठयाहु	1. कठयाहु 2. बनोग 3. त्याम्बला 4. गुशाली 5. खडजोल 6. बाहली 7. जखेडु 8. जनलग	—यथोपरि—	—यथोपरि—
15.	लुहाखर	1. लुहाखर 2. टरवाई 3. कुथवाड 4. झौर 5. डंगोर 6. घडयातर	—यथोपरि—	—यथोपरि—
16.	दसेहडा	1. दसेहडा 2. गैहरी 3. छज्जवाली 4. घनेडा	—यथोपरि—	—यथोपरि—
17.	सरध्वार	1. चौकी—चन्द्राहण 2. सरध्वार 3. बडगांव	—यथोपरि—	—यथोपरि—
18.	सरकीधार	1. गुदाहण 2. सरकीधार	—यथोपरि—	—यथोपरि—

19.	डहणु	1. डहणु 2. हवाणु 3. सिंहल 4. बाग 5. बंगोट	—यथोपरि—	—यथोपरि—
20.	दरव्यास	1. दरव्यास 2. थिन्ना—गलु 3. छज्जवाण—खाबु	—यथोपरि—	—यथोपरि—

आदेश द्वारा,
हस्ताक्षरित / —
प्रधान सचिव (गृह)।

[Authoritative English text of this Department Notification No. Home(A)A(1)-19/2021, dated 24-08-2022 as required under Article 348 (3) of the Constitution of India].

HOME DEPARTMENT

NOTIFICATION

Shimla-2, 24th August, 2022

No. Home(A)A(1)-19/2021.—In exercise of the powers conferred by clause (s) of Section 2 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974) read with sub-section (1) of Section 11 of the Himachal Pradesh Police Act, 2007 (Act No.17 of 2007), the Governor, Himachal Pradesh, in consultation with the Director General of Police, Himachal Pradesh, is pleased to upgrade Police Post Rewalsar as a full fledged Police Station Rewalsar and to transfer the villages as enumerated in Column No. (3) from the local area of the Police Station as mentioned in Column No.(4) to the local area of the newly created Police Station mentioned in Column No.(5) of the SCHEDULE given below thereof, with effect from the date of publication of this Notification in the Rajpatra (e-Gazette), Himachal Pradesh, namely:—

SCHEDULE

Sl. No.	Name of Gram Panchayats/ Nagar Panchayats	Name of Villages contained in Gram Panchayats/ Nagar Panchayats specified in Column No. 2	Police Station from which transferred by this notification	Police Station in which hereinafter included
1	2	3	4	5
1.	Nagar Panchayat Rewalsar	1. Hawani 2. Jol 3. Dehri Galu	Police Station Balh	Police Station Rewalsar
2.	Gram Panchayat Rewalsar	1. Graudhu 2. Chahri 3. Lehda	-do-	-do-

		4. Doh 5. Dhar-I 6. Dhar-II 7. Hawani Galu		
3.	Riur	1. Sukka Riur 2. Riur 3. Gharloni 4. Chalhar 5. Majhyahli 6. Majhwar 7. Badagaon 8. Thara 9. Ghour 10. Safru	-do-	-do-
4.	Kothi Gehri	1. Kothi Gehri 2. Batahan 3. Khill 4. Rakher 5. Baglu 6. Fatlu 7. Ghambhar Khad 8. Kapahdi 9. Rakad	-do-	-do-
5.	Dusra Khabu	1. Durgapur 2. Dusra Khabu 3. Serla Khabu 4. Kut 5. Karnehad 6. Dar	-do-	-do-
6.	Sidyani	1. Dimbri 2. Bhout 3. Sidyani 4. Naundhar 5. Sadehra 6. Lakhwan	-do-	-do-
7.	Samlon	1. Thana 2. Khakriyana 3. Ghandho 4. Samlon 5. Malhni 6. Patha 7. Chhagehar 8. Ghiyundhar 9. Panyali	-do-	-do-

8.	Barswan	1. Ropari 2. Panyali 3. Raped 4. Fatehpur 5. Barswan 6. Larwahni 7. Panolu 8. Samahni	-do-	-do-
9.	Berkot	1. Leda 2. Slapar 3. Sikandra 4. Gharwasra 5. Sanghan	-do-	-do-
10.	Kothi	1. Sidh Kothi 2. Kothi 3. Samahni 4. Samlehar 5. Ghurkotha 6. Jhamrani	-do-	-do-
11.	Beri	1. Khawal kot 2. Beri 3. Mansai 4. Palahi 5. Gantrohal 6. Meramasit 7. Tikkari 8. Andreta 9. Bina 10. Khatwar	-do-	-do-
12.	Halyatar	1. Halyatar 2. Sarua 3. Majhyath 4. Burhali 5. Murari Devi 6. Gharwasra	-do-	-do-
13.	Luhardi	1. Dulag 2. Banon 3. Luhardi 4. Dhar 5. Ghuranu	-do-	-do-
14.	Kathyahu	1. Kathyahu 2. Banog 3. Tyambla 4. Ghushali	-do-	-do-

		5. Khadjol 6. Bahli 7. Jhakedu 8. Janlag		
15.	Luhakhar	1. Luhakhar 2. Tarwai 3. Khuthwar 4. Jhor 5. Dangor 6. Ghadyathar	-do-	-do-
16.	Dasehra	1. Dasehra 2. Gehri 3. Chajjwali 4. Ghanera	-do-	-do-
17.	Sardwar	1. Chowki Chandrahan 2. Sardwar 3. Badgon	-do-	-do-
18.	Sarkhidhar	1. Ghudahan 2. Sarkhidhar	-do-	-do-
19.	Dahnu	1. Dahnu 2. Hawanu 3. Sihal 4. Bag 5. Bangot	-do-	-do-
20.	Darvyas	1. Darvyas 2. Thina Galu 3. Chajjwan Khabu	-do-	-do-

By order,
Sd/-
Principal Secretary (Home).

HOME DEPARTMENT

NOTIFICATION

Shimla-171002, the 24th August, 2022

No. Home(A)A(1)-19/2021.—The Governor, Himachal Pradesh is pleased to withdraw this Department Notification of even number dated 02-08-2022 with immediate effect.

By order,
Sd/-
Principal Secretary (Home).

MEDICAL EDUCATION & RESEARCH DEPARTMENT**NOTIFICATION***Shimla-2, the 25th August, 2022*

No. HFW-B(B)1-2/2019.—The Governor, Himachal Pradesh is pleased to order to establish Nuclear Medicine Department in Dr. RPGMC, Tanda, District Kangra, Himachal Pradesh under the Department of Medical Education & Research, H.P. alongwith creation of four (04) posts of different categories, with immediate effect, in the public interest, as under:—

Sl. No.	Nomenclature of post created	No. of post created	Pay Scale (Pre-revised/Revised)
1.	Assistant Professor	01 (ONE)	₹37400-67000+GP of ₹8900 (Pre-revised) OR Corresponding Pay Scale under the H.P.C.S. (Revised Pay) Rules, 2022 notified <i>vide</i> Notification No. Fin-(PR)B(7)-1/2021 dated 3rd January, 2022.
2.	Senior Resident	01 (ONE)	₹15600-39100+GP of ₹5400 (Pre-revised) OR Corresponding Pay Scale under the H.P.C.S. (Revised Pay) Rules, 2022 notified <i>vide</i> Notification No. Fin-(PR)B(7)-1/2021 dated 3rd January, 2022.
3.	Nuclear Medicine Technologist	02 (TWO)	₹5910-20200+GP of ₹3000 (Pre-revised) OR Corresponding Pay Scale under the H.P.C.S. (Revised Pay) Rules, 2022 notified <i>vide</i> Notification No. Fin-(PR)B(7)-1/2021 dated 3rd January, 2022.

The above mentioned posts shall be filled up in accordance with the R&P rules under the Department of Medical Education & Research, Himachal Pradesh.

This issue with the prior concurrence of the Finance Department obtained *vide* their UO No. 55636576-Fin-F/2022, dated 11-08-2022.

By order,

SUBHASISH PANDA,
Pr. Secretary (Health).

MEDICAL EDUCATION & RESEARCH DEPARTMENT**NOTIFICATION***Shimla-2, the 25th August, 2022*

No. HFW-B(B)1-6/2020.—The Governor, Himachal Pradesh, is pleased to order uncapping of one post of Associate Professor in the Department of Pathology at Dr. YSPGMC Nahan, District

Sirmaur, which was caped *vide* this department notification No. HFW-B(F)4-8/2014-Loose, dated 05-02-2019 and is further pleased to shift the same post in the Department of Immunohematology and Blood Transfusion (Blood Bank) under the Department of Pathology in Dr. Y.S. Parmar Government Medical College, Nahan in public interest.

By order,
Sd/-
Principal Secretary (Health).

राज्य कर एवं आबकारी विभाग

अधिसूचना संख्या: 17 / 2022—राज्य कर

शिमला-2, 25 अगस्त, 2022

सं० ई.एक्स.एन.—एफ.(10)—5 / 2022—वॉल—I.—हिमाचल प्रदेश माल और सेवा कर नियम, 2017, के नियम 48 के उप-नियम (4) के तहत प्रदत्त शक्तियों का प्रयोग करते हुए, राज्यपाल, हिमाचल प्रदेश, जीएसटी परिषद् की सिफारिशों के आधार पर, हिमाचल प्रदेश सरकार की अधिसूचना संख्या 13 / 2020—राज्य कर दिनांक 23 जून, 2020 जो हिमाचल प्रदेश के राजपत्र में संख्या ई.एक्स.एन.—एफ.(10)—4 / 2020 दिनांक 24 जून, 2020, के तहत प्रकाशित की गई थी, में निम्नलिखित और संशोधन करते हैं, अर्थात्:—

उक्त अधिसूचना में, प्रथम अनुच्छेद में, 01 अक्टूबर, 2022 से प्रभावी, शब्द “बीस करोड़ रुपये” के स्थान पर शब्द “दस करोड़ रुपये” प्रतिस्थापित किए जाएंगे।

आदेश द्वारा,

(सुभासीष पन्डा),
प्रधान सचिव (राज्य कर एवं आबकारी)।

टिप्पण:—मूल अधिसूचना संख्या 13 / 2020—राज्य कर दिनांक 23 जून, 2020, जिसे अंतिम बार अधिसूचना संख्या 01 / 2022—राज्य कर, दिनांक 17 मार्च, 2022 जो हिमाचल प्रदेश के राजपत्र में संख्या ई. एक्स.एन.—एफ.(10)—5 / 2022, दिनांक 21-03-2022 को प्रकाशित हुई, द्वारा संशोधित किया गया था।

[Authoritative English text of this Department Notification No. EXN-F(10)-5/2022-Vol-I, dated 25-08-2022 as required under clause (3) of Article 348 of the Constitution of India].

STATE TAXES AND EXCISE DEPARTMENT

NOTIFICATION No. 17/2022-State Tax

Shimla-2, the 25th August, 2022

No. EXN-F(10)-5/2022-Vol-I.—In exercise of the powers conferred by sub-rule(4) of rule 48 of the Himachal Pradesh Goods and Services Tax Rules, 2017, the Governor of Himachal

Pradesh, on the recommendations of the Council, is pleased to make the following further amendment in the notification of the Government of Himachal Pradesh, No. 13/2020-State Tax, dated the 23rd June, 2020, published in the e-Gazette of Himachal Pradesh *vide* number EXN-F(10)-4/2020, dated 24th June, 2020, namely: —

In the said notification, in the first paragraph, with effect from the 1st day of October, 2022, for the words “twenty crore rupees”, the words “ten crore rupees” shall be substituted.

By order,

Sd/-
(SUBHASISH PANDA),
Pr. Secretary (ST&E).

HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION
Vidyut Aayog Bhawan, Block No. 37, SDA Complex, Kasumpti, Shimla-171009

NOTIFICATION

Shimla, the 24th August, 2022

No. HPERC/H(1)-36/2021.—In exercise of powers conferred under Section 57 read with Section 181 (za) of the Electricity Act, 2003 (36 of 2003) read with Section 21 of the General Clauses Act, 1897 (10 of 1897) and all other powers enabling it in this behalf, the Himachal Pradesh Electricity Regulatory Commission proposes the Himachal Pradesh Electricity Regulatory Commission (Compensation to Victims of Electrical Accidents) Regulations, 2022 and as required by Sub-section (3) of Section 181 of the said Act and Rule 3 of the Electricity (Procedure for Previous Publication) Rules, 2005, the draft Regulations are hereby published for the information of all the persons likely to be affected thereby; and notice is hereby given that the said draft Regulations will be taken into consideration after the expiry of thirty (30) days from the date of publication of this notification in the Rajpatra, Himachal Pradesh, together with all the objections or suggestions which may within the aforesaid period be received in respect thereto.

The text of the aforesaid draft amendment is available on the website of the Commission *i.e.* <http://www.hperc.org>.

The objections or suggestions in this behalf should be addressed to the Secretary, Himachal Pradesh Electricity Regulatory Commission, Vidyut Aayog Bhawan, Block-37, SDA Complex, Kasumpti-171009 (H.P.).

DRAFT REGULATIONS

CHAPTER – I

GENERAL

1. Short title, extent, application, interpretation and commencement.—(1) These Regulations may be called the Himachal Pradesh Electricity Regulatory Commission (Compensation to Victims of Electrical Accidents) Regulations, 2022.

-
- (2) These Regulations shall extend to whole of the State of Himachal Pradesh.
- (3) These Regulations shall be applicable to—
- (i) the distribution and transmission licensees in their respective area of supply; and
 - (ii) all the intra-State generating companies in the State of Himachal Pradesh.
- (4) These Regulations shall not apply to—
- (i) the employees covered under Employee's Compensation Act, 1923 and skilled/unskilled persons engaged by the Contractor/Service provider for works/services; and
 - (ii) cases of accident(s) where relief is admissible under the Himachal Pradesh Disaster Management and Relief Manual.
- (5) These Regulations shall be read and construed in all respects as being subject to the provisions of the Act, Rules and Regulations made thereunder and the provisions of any other law for the time being in force.
- (6) These Regulations shall come into force on the date of its publication in the Rajpatra, Himachal Pradesh.

2. Definitions

In these Regulations, unless the context otherwise requires:—

- (1) '**Act**' means the Electricity Act, 2003;
- (2) '**Authority**' means the Central Electricity Authority (CEA) constituted under Section 70 of the Electricity Act, 2003;
- (3) '**Commission**' means the Himachal Pradesh Electricity Regulatory Commission as constituted under Section 82 of the Electricity Act, 2003;
- (4) '**Compensation**' means as provided for in Chapters-III & IV of these Regulations;
- (5) '**Designated Officer of obligated entity**' means the officer designated by the obligated entity for the purpose of these Regulations;
- (6) '**Dependents**' means persons who are entitled to succeed to the estate of the deceased as per the personal law by which the deceased was governed;
- (7) '**Electrical Accident**' means any accident occurring in connection with the generation, transmission, distribution, supply or in connection with, any part of the electric lines or electrical plant and the accident results in loss of human or animal life or any injury to a human being or an animal;
- (8) '**Intra-State Generating Company (ies)**' for the purpose of these Regulations means any power generating company situated in the State of Himachal Pradesh;

(9) **‘Injury’** means any mental or physical harm done to a person or an animal by an electrical accident;

(10) **‘Licensee’** means distribution and transmission licensee granted license under Section 14 of the Act, including a deemed licensee;

(11) **‘Obligated Entity’** for the purpose of these Regulations means an intra State generating company or a licensee liable to pay compensation as per the provisions of these Regulations;

(12) **‘Victim’** means the person affected by loss of human life or animal or injury to person (s) or animals in consequence to electrical accident including legal heir (s) of the deceased in case of loss of human life; and

(13) Unless the context otherwise requires, words or expressions used and not defined in these Regulations, but specifically defined in the Act, shall have the meanings assigned to them in the Act. Other words or expressions used in these Regulations, but not specifically defined in these Regulations or the Act, shall have meanings as are generally understood in the electricity supply industry.

CHAPTER-II

STANDARDS OF PERFORMANCE

3. Safety Standards.—(1) The obligated entity shall strictly comply with the Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations, 2010 as amended from time to time and any further suitable measures that may be specified by the Authority under Section 53 (a) and (b), Section 73 (c) and Regulations notified by Authority under Section 177 (2) (b) of the Electricity Act, 2003.

(2) The obligated entity shall comply with all the mandatory safety requirements and take all necessary measures to protect person(s) and animals from injury by reason of contact with, or proximity of, or by reason of the defective or dangerous condition of any appliance or apparatus/equipment used in transmission and distribution of electrical energy.

(3) The works of the obligated entity shall be constructed, maintained or operated in such a way so as to protect the public (including the persons engaged in the transmission or distribution) and animals from dangers arising from such activities.

(4) The obligated entity shall eliminate or reduce the risks of personal injury to any person or animal.

4. Liability for compensation.—(1) The obligated entity failing to meet the standards of performance specified in Regulation 3 above shall be liable to pay compensation as specified in Chapters—III & IV of these Regulations for injury to person (s) or animal (s) or loss of human or animal like in consequence of an electrical accident.

(2) Whether or not there has been any wrongful act, omission, rashness, neglect or default on the part of the obligated entity as would entitle the victim to maintain a civil action for recovery of any compensation or maintain a prosecution for invoking criminal liability in respect thereof, the obligated entity shall, notwithstanding anything contained in any other law in force, be liable to pay

compensation to such extent as specified in these Regulations, if an electrical accident occurs, resulting in injury to person(s) or animal(s) or loss of human or animal life unless the electrical accident primarily was not due to the failure of the obligated entity to meet the standards of performance but was a direct or proximate result of intervention of some other extraneous reason(s) or cause(s).

(3) The compensation shall be paid within the time limit specified in these Regulations to the victim(s) by the obligated entity.

(4) The final compensation shall not be paid for injury or damage or loss of life occurring out of irresponsible act on the part of the Victim(s).

(5) If the loss of human life is due to suicide or homicide or injury to a human life is due to an attempt to commit suicide or homicide, the obligated entity shall not be liable to pay any compensation for such act under these Regulations.

CHAPTER-III

IMMEDIATE RELIEF

5. Immediate relief in the cases of an electrical accident shall be paid to the victim by the obligated entity in the following manner:—

(1) A person who is affected by the occurrence of an electrical accident may claim immediate relief from the concerned obligated entity as per **Format-II** of these Regulations.

(2) In case of loss of human life, an immediate relief of Rs. 100,000 (rupees one lakh) shall be paid.

(3) In case of hospitalization of the victim on account of injuries caused due to an electrical accident, an immediate relief of Rs. 10,000 (rupees ten thousand) shall be paid:

Provided that in case, the hospitalization continues for more than 7 days, an additional amount of Rs. 5,000 (rupees five thousand) shall be paid:

Provided further that in case the hospitalization continues beyond a fortnight, further amount of Rs. 25,000 (rupees twenty five thousand) shall be paid in addition to the first proviso above:

Provided further that the total amount payable shall not exceed the amount of Rs. 30,000 (Rupees thirty thousand).

(4) The designated officer of the obligated entity shall—

(i) in case of loss of human life, within 3 days from the date of occurrence of incident, collect the copy of First Investigation Report (FIR) and postmortem report from the concerned department/agency of the State Government;

(ii) in case of hospitalization, within 3 days from the date of occurrence of such incident, collect the certificate of hospitalization from the concerned medical Authority of the State Government or/medical prescription slip; and

- (iii) within 7 working days from the date of claim, obtain legal heir certificate and an indemnity bond from the claimant.

(5) The payment on account of immediate relief shall be paid within 3 working days from the receipt of reports/certificates as per Sub-regulation (4) to this Regulation, by the designated officer to the person(s) entitled to receive the same:

Provided that such payment shall be adjusted towards the amount to be paid under Regulation 9:

Provided further that such payment shall not be delayed, for any reason whatsoever, beyond the timelines as specified in this Regulation.

CHAPTER-IV

COMPENSATION

6. Quantum of compensation to be paid on compassionate or humanitarian grounds:—(1) The obligated entity is at liberty to fix the amount of compensation to be paid on compassionate/humanitarian grounds which shall not be less than the amount as specified in these Regulations.

(2) The compensation payable, under these Regulations, for loss of human life due to an electrical accident shall be Rupees 5,00,000/-per person.

(3) In case of disability caused due to an electrical accident, the amount of compensation shall be payable, based on the certificate issued by the concerned Medical Authority designated by the State Government for such purpose with regard to percentage of disability, in the following manner:—

- (i) Permanent Total Disablement: If an injury to a human being caused due to an electrical accident resulted in a permanent total disablement, the compensation payable, under these Regulations, shall be Rs. 4,00,000/-;
- (ii) Permanent Partial Disablement: If an injury to a human being caused due to an electrical accident resulted in a permanent partial disablement, the compensation payable, under these Regulations, shall be equal to the same percentage out of a maximum amount of Rs. 2,00,000/- subject to a minimum of Rs. 1,00,000/-; and
- (iii) Temporary Disablement: If an injury to a human being caused due to an electrical accident resulted in temporary disablement, the compensation payable, under these Regulations, shall be Rs. 50,000/- for a period of disablement below 30 days, Rs. 75,000/- for a period of disablement above 30 days but below 6 months and shall be Rs. 1,00,000/- for period above 6 months.

(4) The compensation payable for loss of animal life as a result of an electrical accident shall be payable at the following rates:—

- (a) Milch Animals:—

Rs. 30,000/-Buffalo/Cow/Yak/Mithun/Camel etc.

Rs. 10,000 Sheep/Goat etc.
Rs. 5,000/- Pig;

(b) Draught animals:—

Rs. 30,000/-Horse/Bullock/Camel/Ox etc.
Rs.15,000/-Calf/Donkey/Pony/Mule, etc; and

(c) Poultry:—

Poultry @ 100/- per bird subject to a ceiling of assistance of Rs. 10,000/- per farm.

CHAPTER—V

REPORTING, INQUIRY, TIMELINES AND PAYMENT OF COMPENSATION

7. Occurrence report and claim by claimant.—(1) In addition to an independent intimation of accident, the Junior Engineer or the Assistant Engineer or the Sr. Executive Engineer or their equivalent rank engineer/officer of the obligated entity shall send a report under proper receipt, through a special messenger or through official email, to the Electrical Inspector of the concerned area/Department of Electrical Inspectorate and to the designated officer of the obligated entity forth with on the occurrence of an electrical accident in Format-I to these Regulations so as to reach the same to Electrical Inspector and the designated officer of the obligated entity within twenty four hours from the occurrence of the electrical accident.

(2) The victim may claim the compensation, as provided in Chapter-IV of these Regulations, from the concerned obligated entity in **Format-III** of these Regulations in addition to already filed claim under Sub-regulation (1) of Regulation 5, if any.

(3) The obligated entity shall upload the following on its website—

- (i) details *i.e.* name, address, telephone number of the Electrical Inspector;
- (ii) details of the designated officer designated by the obligated entity; and
- (iii) the Formats as prescribed under these Regulations.

8. Enquiry Report and Final Orders.—(1) The Department of Electrical Inspectorate shall provide, after conducting a detailed enquiry of electrical accident, a copy of detailed report to the designated officer of the concerned obligated entity.

(2) The designated officer of the concerned obligated entity shall—

- (a) within 5 days, from the date of occurrence of incident, collect the postmortem report, copy of First Investigation Report (FIR) from the concerned department/agency of the State Government for the concerned area, if not already collected under Sub-regulation (4) of Regulation 5;
- (b) within 15 days from the date of occurrence of electrical incident, conduct an independent departmental enquiry, to find out the detailed causes of the accident and

collect the death certificate or disability certificate, as the case may be, from the concerned Authority of State Government; and

- (c) within 10 days from the date of claim, obtain legal heir certificate and an indemnity bond from the claimant, if not collected under Sub-regulation (4) of Regulation 5;

(3) The concerned authority of the obligated entity shall, within 15 days from the date of receipt of the enquiry report from the Department of Electrical Inspectorate, pass the final order.

(4) The designated Officer of the obligated entity shall, within five days from the date of passing of final order, communicate a copy of the same to the claimant(s).

9. Payment of Compensation.—(1) The compensation shall be paid, within 10 days from the date of the final order passed by the designated Officer to the claimant (s), arrived at after adjustment of the amount already paid as immediate relief under Sub-regulation (5) of Regulation 5, if any.

(2) In case such payment is delayed for any reason beyond the timeline provided in Sub-regulation (1) of this Regulation, an additional amount of Rs 50 (Rupees fifty) for each day of default, subject to maximum Rs. 10,000/- shall become payable.

10. Rights to claim compensation through Civil suits.—The right of any person to claim compensation as above shall not affect the right of any such person to file a civil suit to claim the compensation through court of law:

Provided that the amount paid as compensation under these Regulations by the obligated entity shall be adjusted with the amount awarded by the civil courts, if any:

Provided further that the payment of compensation under these Regulations shall not be construed on admission of wrongful act, omission, rashness, neglect or default on the part of the obligated entity in any civil suit filed in a court of law.

11. Claim of compensation under Contracts/Schemes/Insurance.—The right of any person to otherwise claim compensation under any contract or scheme providing for payment of compensation for death or personal injury or any sum payable under any policy of insurance shall remain unaffected by any payment of any sum made under these Regulations.

12. Maintenance of Record.—The designated officer shall maintain the record—

- (i) the detail of claims submitted by the claimants;
- (ii) the intimation reports;
- (iii) certificates (legal heirs/medical certificates etc.);
- (iv) the departmental enquiry reports and inquiry reports submitted by the Department of Electrical Inspectorate;
- (v) the details of amount paid including immediate relief.

13. Dispute Resolution Mechanism.—(1) In case the obligated entity is a Distribution Licensee, the aggrieved victim may approach the Consumer Redressal Forum(s) established by the Distributions Licensee for redressal of his grievances.

(2) In the case the obligated entity is other than the Distribution Licensee, the aggrieved victim may approach the officer designated by such obligated entity for dispute resolution for the purpose of these Regulations.

14. Information to the Commission.—The obligated entity shall submit to the Commission by 30th of every succeeding month, the details of electrical accidents occurred within their respective jurisdiction and action taken thereon in accordance with these Regulations.

15. Consequence of non-compliance.—Non-compliance of these Regulations and contravention of any of the provisions of the Statutes or the Rules or Regulations made there under concerning the subject matter of these Regulations shall be deemed to be non-compliance and contravention within the meaning of Sections 142 and 146 of the Electricity Act, 2003.

CHAPTER-V

MISCELLANEOUS

16. Residuary Provisions.—(i) The provisions of these Regulations shall be in addition to and not in derogation of the provisions of any other Law or Rules or Regulations or Scheme or Contract for the time being in force.

(ii) Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary to meet the ends of justice or to prevent the abuse of the process of the Commission.

(iii) Nothing in these Regulations shall debar the Commission from adopting a procedure which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing deems it necessary or expedient.

(iv) Nothing in these Regulations shall, expressly or impliedly, debar the Commission to deal with any matter or exercise any power under the Electricity Act, 2003 for which no Regulations on the subject have been framed, and the Commission may deal with such matters, powers and functions in a manner it deems fit.

(v) Subject to the provisions of the Electricity Act, 2003 and these Regulations, the Commission may, from time to time, issue orders and practice directions in regard to the implementation of these Regulations and procedure to be followed on various matters which the Commission has been empowered by these Regulations to specify or direct.

17. Periodical revision of the quantum of compensation.—The Commission may, in consultation with the obligated entities and stakeholders and for reasons to be recorded in writing, enhance the limit of compensation specified in these Regulations at any time, by a special order.

18. Power to remove difficulties.—If any difficulty arises in giving effect to any provisions of these Regulations, the Commission may, of its own motion or otherwise, by a general or special order, direct the obligated entity to take suitable action, not being inconsistent with the Act, which appears to the Commission to be necessary or expedient for the purpose of removing the difficulty (ies).

19. Power to relax.—The Commission may, by general or special order, for reasons to be recorded in writing and after giving an opportunity of hearing to the parties likely to be affected, may relax any of the provisions of these Regulations on its own motion or on an application made before it by an interested person.

By order of the Commission,

Sd/-
(CHHAVI NANTA), HPAS,
Secretary.

Format-I

OCCURRENCE REPORT

1. Date & Time of accident:
2. Place of accident:
3. System and Voltage of Supply:
4. Designation of the Officer-in-charge of the Licensee in whose jurisdiction the accident occurred:
5. Name of owner/user of energy in whose premises the accident occurred:
6. Details of Victim(s):

(a) Human

Sl. No.	Name	Father's Name	Sex of the Victim	Full Postal Address	Approximate Age	Fatal/Non-fatal

(b) Animal

Sl. No.	Description of the animal(s)	Number(s)	Name of the owner(s)	Full Postal Address of the owner(s)	Fatal/Non-fatal

7. (a) Describe fully, the nature and extent of sustained injuries e.g. fatal/disability (permanent/temporary) of any portion of the body or burns or other injuries:
(b) In case of fatal accident, was he post mortem performed?:
8. Detailed causes leading to the accident: (Use a separate sheet and attach it to this form, if needed):
9. Action Taken regarding first aid, medical attendance etc. immediately after the occurrence of the electrical accident (Give details):

10. Whether the District magistrate and Police Station concerned have been informed of the electrical accident? (If so, give details):
11. Steps taken to preserve the evidence in connection with the accident to the extent possible:
12. Whether isolating switches and other sectionalizing devices were employed to deaden the sections for working on the same? Whether working section was earthed at the site of the work?:
13. Whether artificial resuscitation treatment was given to the person(s) who met with the electrical accident? If yes, how long was it continued before its abandonment?:
14. Details of the persons who witnessed the accident: (Name, designation, address etc.):
15. Any other information:

Place:
Time:
Date:

Signature
Name & Designation

Format—II**Claim form for Payment of Immediate Relief**

1. Date & Time of accident:
2. Place of accident:
3. Details of the accident:
4. Details of the deceased or Injured person(s): Name (s):
Age:
Sex:
Address:
Occupation:
5. Details of the dead or injured animal (s) Description: Age:
Value:
6. In case of non-fatal accidents, details of temporary/permanent/total/partial disabilities suffered, if any: (Enclose a certificate issued by the relevant Medical Board or any competent Authority)
7. Period of Hospitalization:
8. Immediate Relief already received:

9. Details of the dependents:
10. Whether or not an FIR is registered by the Police:
11. Particulars of Police Station:
12. Particulars of the Hospital/Medical officer who examined the victim:
13. Amount spent on treatment:

Signature of the claimant(s)

Name of the claimant(s)
Aadhaar No. _____

Relationship with the deceased/injured

Enclosures:

1. Proof of identity of the claimant.
2. A copy of the FIR, if not submitted already.
3. A copy of the post mortem report, if conducted.
4. A copy of the inquest report/panchanama, if conducted.
5. A copy of the Death certificate or wound/injury/disability certificate, if issued.
6. A copy of any photo of the deceased or injured person (after the accident), if available.
7. Evidence of relationship with the deceased.
8. Evidence of hospitalization.

FORMAT-III

Claim form for Payment of Compensation

1. Date & Time of accident:
2. Place of accident:
3. Details of the accident:
4. Details of the deceased or Injured person(s): Name (s):
Age:
Sex:

Address:

Occupation:

5. Details of the dead or injured animal(s) Description: Age:

Value:

6. In case of non-fatal accidents, details of temporary/permanent/ total/partial disabilities suffered, if any: (Enclose a certificate issued by the relevant Medical Board or any competent Authority).

7. Details of the dependents:

8. Whether or not an FIR is registered by the Police:

9. Particulars of Police Station:

10. Particulars of the Hospital/Medical officer who examined the victim:

11. Amount spent on treatment:

Signature of the claimant(s)

Name of the claimant(s)
Aadhaar No. _____

Relationship with the deceased/injured/animal.....

Enclosures:

For Humans:—

1. Proof of identity of the claimant.
2. A copy of the FIR.
3. A copy of the postmortem report, if conducted.
4. A copy of the inquest report/panchanama, if conducted.
5. A copy of the Death certificate or wound/injury/disability certificate, if issued.
6. A copy of any photo of the deceased or injured person (after the accident), if available.
7. Evidence of relationship with the deceased.
8. Evidence of expenses of hospitalization and treatment.

For Animals:—

1. Proof of identity of the claimant.

2. A copy of the FIR, if registered.
3. A copy of the post mortem report, if conducted.
4. A copy of the inquest report/panchanama, if conducted.
5. A copy of the Death certificate or wound/injury certificate, if issued.
6. A copy of any photo of the deceased or injured animal (after the accident), if available.
7. Affidavit of the owner about the ownership of animal and value.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA -171 001

NOTIFICATION

Shimla, the 17th August, 2022

No. HHC/Admn.16 (7)74-XVI-Part.—Hon'ble the Chief Justice, in exercise of powers vested in him U/S 139(b) of the Code of Civil Procedure, 1908, U/S 297(1) (b) of the Code of Criminal Procedure, 1973 and Rule 5(vi) of the H.P. Oath Commissioners (Appointment & Control) Rules, 2007 has been pleased to appoint Ms. Pooja Kumari Advocate (HIM/248/2016), as Oath Commissioner at Kangra for a period of two years with immediate effect for administering oaths and affirmations on affidavits to the deponents under the aforesaid Codes and Rules.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA - 171 001

NOTIFICATION

Shimla, the 18th August, 2022

No. HHC/Admn.16 (13)74-XI.—Hon'ble the Chief Justice, in exercise of the powers vested in him U/S 139(b) of the Code of Civil Procedure, 1908, U/S 297(1) (b) of the Code of Criminal Procedure, 1973 and Rule 5(vi) of the H.P. Oath Commissioners (Appointment & Control) Rules, 2007 has been pleased to appoint Sh. Nitin Sharma (HIM/98/2018), Advocate, Jubbal as Oath Commissioner at Jubbal, H.P., for a period of two years with effect from 19-08-2022, for administering oaths and affirmations on affidavits to the deponents under the aforesaid Codes and Rules.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA - 171 001**NOTIFICATION***Shimla, the 18th August, 2022*

No. HHC/Admn.16(7)74-XVI.—Hon'ble the Chief Justice, in exercise of the powers vested in him U/S 139(b) of the Code of Civil Procedure, 1908, U/S 297(1) (b) of the Code of Criminal Procedure, 1973 and Rule 5(vi) of the H.P. Oath Commissioners (Appointment & Control) Rules, 2007 has been pleased to appoint Ms. Kamini Devi (HIM/184/2020) Advocate, as Oath Commissioner at Jawali, Distt. Kangra, H.P. for a period of two years with immediate effect for administering oaths and affirmations on affidavits to the deponents under the aforesaid Codes and Rules.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA - 171 001**NOTIFICATION***Shimla, the 18th August, 2022*

No. HHC/Admn.16 (7)74-XVI.—Hon'ble the Chief Justice, in exercise of the powers vested in him U/S 139(b) of the Code of Civil Procedure, 1908, U/S 297(1) (b) of the Code of Criminal Procedure, 1973 and Rule 5(vi) of the H.P. Oath Commissioners (Appointment & Control) Rules, 2007 has been pleased to appoint Sh. Sushen Kumar Purohit (HIM/123/2013) Advocate, as Oath Commissioners at Baijnath for a period of two years with immediate effect for administering oaths and affirmations on affidavits to the deponents under the aforesaid Codes and Rules.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA - 171 001**NOTIFICATION***Shimla, the 20th August, 2022*

No. HHC/Admn.16 (20)75-III.—Hon'ble the Chief Justice, in exercise of the powers vested in him U/S 139(b) of the Code of Civil Procedure, 1908, U/S 297(1) (b) of the Code of Criminal Procedure, 1973 and Rule 5(vi) of the H.P. Oath Commissioners (Appointment & Control) Rules, 2007 has been pleased to appoint Ms. Chetna (HIM/298/2021) and Sh. Pulkit

Chauhan (HIM/493/2019) Advocates, as Oath Commissioners at Jhandutta Distt. Bilaspur for a period of two years with immediate effect for administering oaths and affirmations on affidavits to the deponents under the aforesaid Codes and Rules.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 20th August, 2022

No. HHC/Admn.16 (22)75-V.—Hon'ble the Chief Justice, in exercise of the powers vested in him U/S 139(b) of the Code of Civil Procedure, 1908, U/S 297(1) (b) of the Code of Criminal Procedure, 1973 and Rule 5(vi) of the H.P. Oath Commissioners (Appointment & Control) Rules, 2007 has been pleased to appoint Ms. Chandresh Kumari (HIM/108/2018) Advocate as Oath Commissioners at Nahan, H.P. for a period of two years with immediate effect for administering oaths and affirmations on affidavits to the deponents under the aforesaid Codes and Rules.

By order,
Sd/-
Registrar General.

In the Court of Sub-Divisional Magistrate, Chamba, District Chamba (H. P.)

Moneet Kumar s/o Sh. Devi Lal aged 30 years, resident of Village Ghatta, P.O. Chakloo, Tehsil & District Chamba (H. P.).

and

Bhabani Devi d/o Sh. Amar Nath aged 30 years, resident of V.P.O. Mangnoti, Tehsil Barsar, Distt. Hamirpur (H.P.).

Versus

The General Public

Subject.— Notice regarding registration of Marriage under sections 15 & 16 of Special of Marriage Act, 1954.

Whereas, the above named applicants have made an application before the undersigned under section 15 of Special Marriage Act, 1954 (Central Act) as amended by the Marriage Laws (Amendment Act 01, 49 of 2001) alongwith affidavits and other relevant documents stating therein that they have solemnized their marriage on 24-01-2022 at their place of residences and they are

living together as husband and wife since then. Hence their marriage may be registered under Special Marriage Act, 1954.

Now therefore, the general public is hereby informed through this notice that any person who has any objection regarding the registration of this marriage can file the objections personally or in writing before this court on or before 02-09-2022. After that no objections will be entertained and marriage will be registered accordingly.

Issued under my hand and seal of the Court on this 3rd Day of August, 2022.

Seal.

ARUN KUMAR SHARMA, H.P.A.S.,
Sub-Divisional Magistrate,
Chamba, District Chamba (H.P.).

ब अदालत सहायक समाहर्ता द्वितीय वर्ग, ककीरा, जिला चम्बा, हिमाचल प्रदेश

श्रीमती उषा देवी सुपुत्री स्व० श्री अमरो पत्नी श्री गरगेश कुमार, निवासी गांव ललहेड, डाकघर कैहल, तहसील डलहौजी, जिला चम्बा, हिमाचल प्रदेश प्रार्थिया।

बनाम

आम जनता

प्रत्यार्थीगण।

विषय.—प्रार्थना—पत्र बराये नाम दुरुस्ती बारे।

उपरोक्त प्रार्थिया श्रीमती उषा देवी सुपुत्री स्व० श्री अमरो पत्नी श्री गरगेश कुमार, निवासी गांव ललहेड, डाकघर कैहल, तहसील डलहौजी, जिला चम्बा, हिमाचल प्रदेश ने अधोहस्ताक्षरी की अदालत में प्रार्थना—पत्र मय अन्य कागजात इस आशय से गुजारा है कि उसका सही नाम उषा देवी है, जोकि ग्राम पंचायत मोरनू के रिकार्ड, उसके स्कूल प्रमाण—पत्रों व आधार कार्ड में सही दर्ज है लेकिन राजस्व विभाग के मुहाल कैहलू पटवार वृत्त नैनीखड में गलती से आशा देवी दर्ज है, जिसकी दुरुस्ती की जावे।

इस सम्बन्ध में सर्वसाधारण जनता को बजरिया इश्तहार सूचित किया जाता है कि प्रार्थिया के नाम दुरुस्ती बारे यदि किसी को कोई उजर/एतराज हो तो वह असालतन या वकालतन अदालत अधोहस्ताक्षरी दिनांक 17-09-2022 को हाजिर आकर अपना एतराज दर्ज करवा सकता है। हाजिर न आने की सूरत में एकतरफा कार्यवाही अमल में लाई जा करके नाम दुरुस्ती के आदेश दे दिये जाएंगे।

आज दिनांक 17-08-2022 को मेरे हस्ताक्षर व अदालत मोहर से जारी हुआ।

मोहर।

हस्ताक्षरित/—
(ज्ञान चन्द),
सहायक समाहर्ता, द्वितीय वर्ग,
ककीरा, जिला चम्बा, हिमाचल प्रदेश।

ब अदालत सहायक समाहर्ता, द्वितीय वर्ग, ककीरा, जिला चम्बा, हिमाचल प्रदेश

श्री संतोष कुमार पुन सुपुत्र श्री भगवान सिंह, निवासी गांव भरमाला, डाकघर घटासनी, उप-तहसील ककीरा, जिला चम्बा, हिमाचल प्रदेश प्रार्थी।

बनाम

आम जनता

प्रत्यार्थीगण।

विषय.—प्रार्थना-पत्र बराये नाम दुरुस्ती बारे।

उपरोक्त प्रार्थी श्री संतोष कुमार पुन सुपुत्र श्री भगवान सिंह, निवासी गांव भरमाला, डाकघर घटासनी, उप-तहसील ककीरा, जिला चम्बा, हिमाचल प्रदेश ने अधोहस्ताक्षरी की अदालत में प्रार्थना-पत्र मय अन्य कागजात इस आशय से गुजारा है कि उसका सही नाम संतोष कुमार पुन है, जोकि ग्राम पंचायत चलामा के रिकार्ड व आधार कार्ड में सही दर्ज है लेकिन राजस्व विभाग के मुहाल भरमाला पटवार वृत्त घटासनी में गलती से विजय दर्ज है, जिसकी दुरुस्ती की जावे।

इस सम्बन्ध में सर्वसाधारण जनता को बजरिया इश्तहार सूचित किया जाता है कि प्रार्थी के नाम दुरुस्ती बारे यदि किसी को कोई उजर/एतराज हो तो वह असालतन या वकालतन अदालत अधोहस्ताक्षरी दिनांक 20-09-2022 को हाजिर आकर अपना एतराज दर्ज करवा सकता है। हाजिर न आने की सूरत में एकतरफा कार्यवाही अमल में लाई जा करके नाम दुरुस्ती के आदेश दे दिये जाएंगे।

आज दिनांक 17-08-2022 को मेरे हस्ताक्षर व अदालत मोहर से जारी हुआ।

मोहर।

हस्ताक्षरित/—

(ज्ञान चन्द),

सहायक समाहर्ता, द्वितीय वर्ग,

ककीरा, जिला चम्बा, हिमाचल प्रदेश।

ब अदालत सहायक समाहर्ता, द्वितीय वर्ग, ककीरा, जिला चम्बा, हिमाचल प्रदेश

श्री विजय पुन सुपुत्र श्री भगवान सिंह, निवासी गांव भरमाला, डाकघर घटासनी, उप-तहसील ककीरा, जिला चम्बा, हिमाचल प्रदेश प्रार्थी।

बनाम

आम जनता

प्रत्यार्थीगण।

विषय.—प्रार्थना-पत्र बराये नाम दुरुस्ती बारे।

उपरोक्त प्रार्थी श्री विजय पुन सुपुत्र श्री भगवान सिंह, निवासी गांव भरमाला, डाकघर घटासनी, उप-तहसील ककीरा, जिला चम्बा, हिमाचल प्रदेश ने अधोहस्ताक्षरी की अदालत में प्रार्थना-पत्र मय अन्य कागजात इस आशय से गुजारा है कि उसका सही नाम विजय पुन है, जोकि ग्राम पंचायत चलामा के रिकार्ड व आधार कार्ड में सही दर्ज है लेकिन राजस्व विभाग के मुहाल भरमाला पटवार वृत्त घटासनी में गलती से विजय दर्ज है, जिसकी दुरुस्ती की जावे।

इस सम्बन्ध में सर्वसाधारण जनता को बजरिया इश्तहार सूचित किया जाता है कि प्रार्थी के नाम दुरुस्ती बारे यदि किसी को कोई उजर/एतराज हो तो वह असालतन या वकालतन अदालत अधोहस्ताक्षरी दिनांक 20-09-2022 को हाजिर आकर अपना एतराज दर्ज करवा सकता है। हाजिर न आने की सूरत में एकतरफा कार्यवाही अमल में लाई जा करके नाम दुरुस्ती के आदेश दे दिये जाएंगे।

आज दिनांक 17-08-2022 को मेरे हस्ताक्षर व अदालत मोहर से जारी हुआ।

मोहर।

हस्ताक्षरित/—
(ज्ञान चन्द),
सहायक समाहर्ता, द्वितीय वर्ग,
ककीरा, जिला चम्बा, हिमाचल प्रदेश।

ब अदालत सहायक समाहर्ता, द्वितीय वर्ग, ककीरा, जिला चम्बा, हिमाचल प्रदेश

श्री पवन कुमार पुत्र श्री जोगिन्द्र, निवासी गांव तुलड, डाकघर घटासनी, उप-तहसील ककीरा, जिला चम्बा (हि0 प्र0)।

बनाम

आम जनता

विषय.—प्रार्थना-पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

उपरोक्त प्रार्थी ने अधोहस्ताक्षरी की अदालत में प्रार्थना-पत्र, ब्यान हल्फी बमय अन्य कागजात इस आशय से गुजारा है कि उसकी जन्म तिथि 23-07-1988 है, जो कि ग्राम पंचायत घटासनी के रिकार्ड में दर्ज न है। जिसे दर्ज किया जावे।

इस सम्बन्ध में सर्वसाधारण जनता को बजरिया इश्तहार सूचित किया जाता है कि प्रार्थी की जन्म तिथि ग्राम पंचायत घटासनी के रिकार्ड में दर्ज करने पर यदि किसी को कोई उजर व एतराज हो तो वह असालतन या वकालतन अदालत अधोहस्ताक्षरी दिनांक 20-09-2022 को हाजिर आकर अपना एतराज दर्ज करवा सकता है। हाजिर न आने की सूरत में एकतरफा कार्यवाही अमल में लाई जा करके नाम व जन्म तिथि दर्ज करने के आदेश दे दिये जायेंगे।

आज दिनांक 10-08-2022 को मेरे हस्ताक्षर व अदालत मोहर से जारी हुआ।

मोहर।

हस्ताक्षरित/—
(ज्ञान चन्द),
सहायक समाहर्ता, द्वितीय वर्ग,
ककीरा, जिला चम्बा, हिमाचल प्रदेश।

**ब अदालत कार्यकारी दण्डाधिकारी एवं विवाह पंजीकरण अधिकारी, तहसील बमसन स्थित टौणी देवी,
जिला हमीरपुर (हि0 प्र0)**

1. श्री सीता राम पुत्र संगारा राम, वासी टीका कलोह, तहसील बमसन स्थित टौणी देवी, जिला हमीरपुर (हि0 प्र0)।

2. श्रीमती मन्शा देवी पुत्री अच्छर सिंह, वासी टीका भेरडा, डा0 भेरडा, तहसील बमसन स्थित टौणी देवी, जिला हमीरपुर (हि0 प्र0) प्रार्थीगण।

बनाम

आम जनता

प्रतिवादी।

विषय.—विवाह पंजीकरण u/s 8(4) विवाह पंजीकरण अधिनियम, 1996 के अधीन दर्ज करवाने बारे।

उपरोक्त विषय के सन्दर्भ में प्रार्थीगण ने दिनांक 01-10-1948 को आपस में हिन्दू रीति-रिवाज अनुसार विवाह किया है। लेकिन किसी कारणवश यह विवाह ग्राम पंचायत भटेड में दर्ज नहीं हो सका। प्रार्थीगण अब इस विवाह को ग्राम पंचायत भटेड के रिकार्ड में पंजीकृत करवाना चाहते हैं। अतः इस इशतहार द्वारा आम जनता को सूचित किया जाता है कि इस विवाह के पंजीकरण बारे किसी को कोई उजर/एतराज हो तो वह असालतन/वकालतन हाजिर न्यायालय होकर दिनांक 06-09-2022 तक एतराज पेश कर सकता है। हाजिर न आने की सूरत में एकतरफा कार्यवाही अमल में लाई जाकर आगामी कार्यवाही की जाएगी। उसके बाद का उजर जेरे समायत न होगा।

आज दिनांक 05-08-2022 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—

कार्यकारी दण्डाधिकारी एवं विवाह पंजीकरण अधिकारी,
तहसील बमसन स्थित टौणी देवी, जिला हमीरपुर (हि0 प्र0)।

**ब अदालत कार्यकारी दण्डाधिकारी एवं विवाह पंजीकरण अधिकारी, तहसील बमसन स्थित टौणी देवी,
जिला हमीरपुर (हि0 प्र0)**

1. श्रीमती सत्या देवी पुत्री दुर्गा दास, वासी टीका भरेटा, तहसील व जिला हमीरपुर (हि0 प्र0)

2. श्री प्रकाश चंद पुत्र सीता राम, वासी टीका टाण दरोगन, गांव टाण दरोगन, तहसील बमसन स्थित टौणी देवी, जिला हमीरपुर (हि0 प्र0)। प्रार्थीगण।

बनाम

आम जनता

प्रतिवादी।

विषय.—विवाह पंजीकरण u/s 8(4) विवाह पंजीकरण अधिनियम, 1996 के अधीन दर्ज करवाने बारे।

उपरोक्त विषय के सन्दर्भ में प्रार्थीगण ने दिनांक 08-03-1969 को आपस में हिन्दू रीति-रिवाज अनुसार विवाह किया है। लेकिन किसी कारणवश यह विवाह ग्राम पंचायत दरोगन पती कोट में दर्ज नहीं हो सका। प्रार्थीगण अब इस विवाह को ग्राम पंचायत दरोगन पती कोट के रिकार्ड में पंजीकृत करवाना चाहते हैं। अतः इस इशतहार द्वारा आम जनता को सूचित किया जाता है कि इस विवाह के पंजीकरण बारे किसी को कोई उजर/एतराज हो तो वह असालतन/वकालतन हाजिर न्यायालय होकर दिनांक 16-09-2022 तक एतराज पेश कर सकता है। हाजिर न आने की सूरत में एकतरफा कार्यवाही अमल में लाई जाकर आगामी कार्यवाही की जाएगी। उसके बाद का उजर जेरे समायत न होगा।

आज दिनांक 16-08-2022 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित /—

कार्यकारी दण्डाधिकारी एवं विवाह पंजीकरण अधिकारी,
तहसील बमसन स्थित टौणी देवी, जिला हमीरपुर (हि0 प्र0)।

ब अदालत सहायक समाहर्ता द्वितीय श्रेणी, थाची, जिला मण्डी (हि0 प्र0)

मिसल नम्बर : 02 / 2022

आगामी पेशी : 29-08-2022

श्री शौणु पुत्र श्री कमलू पुत्र श्री जोधू निवासी गांव भरैडा, डाकघर थाची, उप-तहसील थाची, जिला मण्डी (हि0 प्र0) प्रार्थी।

बनाम

आम जनता

प्रतिवादी।

विषय.— राजस्व रिकार्ड में नाम दुरुस्ती करने बारे प्रार्थना-पत्र।

प्रार्थी श्री शौणु पुत्र श्री कमलू पुत्र श्री जोधू निवासी गांव भरैडा, डाकघर थाची, उप-तहसील थाची, जिला मण्डी (हि0 प्र0) ने दिनांक 30-07-2022 को इस अदालत में आवेदन पत्र गुजारा है कि उनका नाम राजस्व अभिलेख में सावणू घरेलू दर्ज हुआ है जबकि पंचायत रिकॉर्ड, आधार कार्ड व अन्य रिकॉर्ड में उनका नाम शौणू दर्ज है। प्रार्थी ने इस अदालत से प्रार्थना की है कि मुहाल चोहड़ी वटवाड़ा व मुहाल ददवास, उप-तहसील थाची, जिला मण्डी के तमाम भू0-राजस्व अभिलेख में उनका नाम सावणू उर्फ शौणु दर्ज करने हेतु आदेश पारित किया जाए।

अतः इस इशतहार द्वारा आम जनता को सूचित किया जाता है कि यदि किसी हितबद्ध व्यक्ति को उक्त नाम दुरुस्ती करने बारा कोई उजर/एतराज हो तो वह असालतन या वकालतन तारीख पेशी 29-08-2022 को 10.00 बजे हाजिर होकर अपना उजर/एतराज पेश कर सकता है। बसूरत गैरहाजिरी एकतरफा कार्यवाही अमल में लाई जाकर उचित आदेश पारित कर दिए जाएंगे।

मोहर।

हस्ताक्षरित /—

सहायक समाहर्ता द्वितीय श्रेणी,
उप-तहसील थाची, जिला मण्डी (हि0 प्र0)।

अज कार्यालय, सहायक समाहर्ता प्रथम श्रेणी, तहसील औट, जिला मण्डी (हि0 प्र0)

कृष्ण कुमार

प्रार्थी।

बनाम

स्व0 बिहारी लाल आदि

प्रतिवादी।

नोटिस.—मुश्तरी मुन्यादी जेर दफा 23 हि0प्र0 भू—राजस्व अधिनियम, 1954 बनाम मृतक प्रतिवादी 4 रमेश पुत्र शेर सिंह व प्रतिवादी 14 पवन कुमार पुत्र वामन देव के जायज वारसान।

1. पियूष पुत्र पवन कुमार, 2. श्रीमती मेघा पुत्री पवन कुमार, 3. श्रीमती पुष्पा पत्नी स्व0 श्री पवन कुमार, 4. ईशिता पुत्री रमेश, 5. कनिका पुत्री रमेश, 6. श्रीमती बिन्दु पत्नी स्व0 श्री रमेश।

यह है कि उपरोक्त वादी ने अपनी मुश्त्रिका अराजी खाता/खतौनी 97/111, खसरा नं0 526, 527 व 528, कित्ता 3, रकबा 87—19—5 बीघा, मोहाल नगवाई/509, तहसील औट, जिला मण्डी, हि0प्र0 की तकसीम के लिए अधोहस्ताक्षरी के कार्यालय में आवेदन किया है। दावा तकसीम इस कार्यालय में विचाराधीन है। चूंकि कार्यालय पत्रवाहक की रिपोर्टनुसार प्रतिवादी—4 रमेश पुत्र शेर सिंह व प्रतिवादी—14 पवन कुमार पुत्र वामन देव का देहांत हो चुका है। उक्त प्रतिवादियों के जायज वारसान जिला कुल्लू व जिला शिमला में निवास करते हैं व उक्त जायज वारसान समन भेजने के बावजूद भी पेशी में हाजिर नहीं हो पा रहे हैं जिसमें प्रतीत होता है कि उक्त प्रतिवादियों के जायज वारसानों को समन की तामील सामान्य तरीके से सम्भव नहीं है।

अतः इस नोटिस के माध्यम से उक्त प्रतिवादी—4 रमेश पुत्र शेर सिंह व प्रतिवादी—14 पवन कुमार पुत्र वामन देव के जायज वारसानों व अन्य कोई व्यक्ति जो उक्त भूमि से हितबद्ध हो तो तकसीम के बारे अपना एतराज आगामी दिनांक पेशी 05—09—2022 को या इससे पूर्व इस कार्यालय में हाजिर होकर दर्ज करवा सकता है। इसके उपरान्त कोई भी एतराज काबिले समायत नहीं होगा।

आज दिनांक 02 अगस्त, 2022 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता प्रथम श्रेणी,
तहसील औट, जिला मण्डी (हि0 प्र0)।

ब अदालत नायब तहसीलदार एवं सहायक समाहर्ता, द्वितीय वर्ग, हरोली, जिला ऊना (हि0प्र0)

इश्तहार मुश्त्री मुनादी जेर धारा—23 भू—राजस्व अधिनियम, 1954

दरखास्त बमुराद दुरुस्ती राजस्व रिकार्ड महाल हरोली खास की जमाबन्दी 2015—16 में अतिन्दर पाल पुत्र सुरजीत सिंह पुत्र करतार सिंह के बजाये अतिन्दर पाल सिंह पुत्र सुरजीत सिंह पुत्र करतार सिंह दर्ज करने बारे।

बनाम

आम जनता

उपरोक्त मुकद्दमा उनवान वाला में प्रार्थी अतिन्दर पाल सिंह पुत्र सुरजीत सिंह पुत्र, करतार सिंह, वासी हरोली, तहसील हरोली, जिला ऊना ने प्रार्थना-पत्र प्रस्तुत करके निवेदन किया है कि उसका नाम जमाबन्दी साल 2015-2016 में अतिन्दर पाल पुत्र सुरजीत सिंह पुत्र करतार सिंह गलत चल रहा है। जबकि उसका सही नाम अतिन्दर पाल सिंह पुत्र सुरजीत सिंह पुत्र करतार सिंह है। अतः सर्वसाधारण को इस इशतहार द्वारा सूचित किया जाता है कि अगर किसी भी व्यक्ति को उक्त नाम की दुरुस्ती बारे कोई एतराज हो तो वह मुकद्दमा की पैरवी हेतु असालतन या वकालतन इस न्यायालय में दिनांक 29-08-2022 को प्रातः 10.00 बजे हाजिर आयें हाजिर न आने की सूरत में उनके खिलाफ एकतरफा कार्यवाही अमल में लाई जाकर मुकद्दमा का निपटारा/फैसला कर दिया जायेगा।

आज दिनांक 08-08-2022 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित /—
नायब तहसीलदार एवं सहायक समाहर्ता, द्वितीय वर्ग,
हरोली, जिला ऊना (हि0 प्र0)।

ब अदालत श्री राजन कुमार, नायब तहसीलदार एवं सहायक समाहर्ता, द्वितीय वर्ग,
सब-तहसील मैहतपुर बसदेहड़ा, जिला ऊना (हि0 प्र0)

मुकद्दमा : इन्द्राज सेहत नाम

पेशी : 12-09-2022

दावा संख्या नं0...../Naib Teh., Sub. Teh. Mehatpur Basdehra/Cor./2022

सुमन चाहल पुत्री स्व0 श्री सोहन सिंह वासी मजारा, उप-तहसील मेहतपुर बसदेहड़ा, जिला ऊना (हि0प्र0)

बनाम

आम जनता

विषय.—दुरुस्ती नाम हि0 प्र0 रा0 अधिनियम, 1954 की जेर धारा 37 के तहत उप-महाल मजारा में नाम दुरुस्ती बारे।

उपरोक्त मुकद्दमा बारे प्रार्थिया ने इस न्यायालय में प्रार्थना-पत्र गुजारा है जिसमें लिखा है कि उसका स्वयं का नाम सुमन चाहल है जबकि उप-महाल मजारा के राजस्व अभिलेख में उसका स्वयं का नाम प्रीती दर्ज है जोकि गलत इन्द्राज हुआ है। प्रार्थिया उक्त नाम को दुरुस्त करके प्रीति उपनाम सुमन चाहल दर्ज करवाना चाहती है।

अतः उक्त प्रार्थना-पत्र के सन्दर्भ में उपरोक्त नाम की दुरुस्ती बारे किसी को कोई उजर या एतराज हो तो वह असालतन या वकालतन इस न्यायालय में दिनांक 12-09-2022 को सुबह 10.00 बजे हाजिर आ सकता है। हाजिर न आने की स्थिति में एकतरफा कार्यवाही अमल में लाई जाकर आगामी आदेश पारित कर दिये जाएंगे। इसके बाद कोई भी उजर या एतराज काबिले समायत न होगा।

आज दिनांक 12-08-2022 को मेरे हस्ताक्षर व न्यायालय की मोहर द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित /—
(राजन कुमार),
नायब तहसीलदार एवं सहायक समाहर्ता, द्वितीय वर्ग,
सब-तहसील मैहतपुर बसदेहड़ा, जिला ऊना (हि0 प्र0)।

ब अदालत श्री राजन कुमार, नायब तहसीलदार एवं सहायक समाहर्ता, द्वितीय वर्ग,
सब-तहसील मैहतपुर बसदेहड़ा, जिला ऊना (हि0 प्र0)

मुकद्दमा : इन्द्राज सेहत नाम

पेशी : 12-09-2022

दावा संख्या नं0...../Naib Teh., Sub. Teh. Mehatpur Basdehra/Cor./2022

किशन चन्द

बनाम

आम जनता

विषय.—दुरुस्ती नाम हि0 प्र0 रा0 अधिनियम, 1954 की जेर धारा 37 के तहत उप-महाल रायेपुर सहोडा में नाम दुरुस्ती बारे।

उपरोक्त मुकद्दमा बारे प्रार्थी ने इस न्यायालय में प्रार्थना-पत्र गुजारा है जिसमें लिखा है कि उसका स्वयं का नाम किशन चन्द है जबकि उप-महाल रायेपुर झिकला के राजस्व अभिलेख में उसका स्वयं का नाम राम कृष्ण दर्ज है जोकि गलत इन्द्राज हुआ है। प्रार्थी उक्त नाम को दुरुस्त करके राम कृष्ण उपनाम किशन चन्द दर्ज करवाना चाहता है।

अतः उक्त प्रार्थना-पत्र के सन्दर्भ में उपरोक्त नाम की दुरुस्ती बारे किसी को कोई उजर या एतराज हो तो वह असालतन या वकालतन इस न्यायालय में दिनांक 12-09-2022 को सुबह 10.00 बजे हाजिर आ सकता है। हाजिर न आने की स्थिति में एकतरफा कार्यवाही अमल में लाई जाकर आगामी आदेश पारित कर दिये जाएंगे। इसके बाद कोई भी उजर या एतराज काबिले समायत न होगा।

आज दिनांक 12-08-2022 को मेरे हस्ताक्षर व न्यायालय की मोहर द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित / —

(राजन कुमार),

नायब तहसीलदार एवं सहायक समाहर्ता, द्वितीय वर्ग,
सब-तहसील मैहतपुर बसदेहड़ा, जिला ऊना (हि0 प्र0)।

ब अदालत श्री राजन कुमार, नायब तहसीलदार एवं सहायक समाहर्ता, द्वितीय वर्ग,
सब-तहसील मैहतपुर बसदेहड़ा, जिला ऊना (हि0 प्र0)

मुकद्दमा : इन्द्राज सेहत नाम

पेशी : 17-09-2022

दावा संख्या नं0...../Naib Teh., Sub. Teh. Mehatpur Basdehra/Cor./2022

कशमीर चन्द पुत्र श्री दीवान चन्द, वासी सनोली, उपतहसील मेहतपुर बसदेहड़ा, जिला ऊना (हि0प्र0)

बनाम

आम जनता

विषय.—दुरुस्ती नाम हि0 प्र0 रा0 अधिनियम, 1954 की जेर धारा 37 के तहत उप-महाल सनोली में नाम दुरुस्ती बारे।

उपरोक्त मुकद्दमा बारे प्रार्थी ने इस न्यायालय में प्रार्थना-पत्र गुजारा है जिसमें लिखा है कि उसका स्वयं का नाम कश्मीर चन्द है जबकि उप-महाल सनोली के राजस्व अभिलेख में उसका स्वयं का नाम फकीर चन्द दर्ज है जोकि गलत इन्द्राज हुआ है। प्रार्थी उक्त नाम को दुरुस्त करके फकीर चन्द उपनाम कश्मीर चन्द दर्ज करवाना चाहता है।

अतः उक्त प्रार्थना-पत्र के सन्दर्भ में उपरोक्त नाम की दुरुस्ती बारे किसी को कोई उजर या एतराज हो तो वह असालतन या वकालतन इस न्यायालय में दिनांक 17-09-2022 को सुबह 10.00 बजे हाजिर आ सकता है। हाजिर न आने की स्थिति में एकतरफा कार्यवाही अमल में लाई जाकर आगामी आदेश पारित कर दिये जाएंगे। इसके बाद कोई भी उजर या एतराज काबिले समायत न होगा।

आज दिनांक को मेरे हस्ताक्षर व न्यायालय की मोहर द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित /—

(राजन कुमार),

नायब तहसीलदार एवं सहायक समाहर्ता, द्वितीय वर्ग,
सब-तहसील मैहतपुर बसदेहड़ा, जिला ऊना (हि0 प्र0)।

ब अदालत जनाब सहायक समाहर्ता, प्रथम श्रेणी, ऊना, जिला ऊना (हि0प्र0)

मुकद्दमा नं0 : 9/टी0/Corr./2022

किस्म मुकद्दमा : नाम दुरुस्ती

तारीख पेशी : 19-09-2022

श्री नरिन्दर कुमार पुत्र श्री सन्त राम पुत्र भीखा, गांव त्यूड़ी, तहसील व जिला ऊना (हि0प्र0) वादी।

बनाम

आम जनता

प्रतिवादी।

प्रार्थना-पत्र.—नाम दुरुस्ती प्रार्थी श्री देविन्दर दत्त डोगरा पुत्र श्री सन्त राम पुत्र भीखा, गांव त्यूड़ी, तहसील व जिला ऊना (हि0प्र0)।

प्रार्थना-पत्र नाम दुरुस्ती प्रार्थी श्री देविन्दर दत्त डोगरा पुत्र श्री सन्त राम पुत्र भीखा, गांव त्यूड़ी, तहसील व जिला ऊना (हि0प्र0) ने इस अदालत में प्रार्थना-पत्र दायर किया है कि उसका नाम राजस्व अभिलेख उप-महाल त्यूड़ी प्रथम में नरिन्दर कुमार दर्ज है जबकि उसका सही नाम देविन्दर दत्त डोगरा है लिहाजा इसे दुरुस्त करके नरिन्दर कुमार उर्फ देविन्दर दत्त डोगरा किया जाए।

अतः इस नोटिस इश्तहार राजपत्र हिमाचल प्रदेश व मुस्त्री मुनादी चस्पांगी के माध्यम से आम जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि अगर किसी को उपरोक्त नाम दुरुस्ती बारे कोई उजर व एतराज हो तो दिनांक पेशी 19-09-2022 को सुबह 10.00 बजे इस न्यायालय में असालतन या वकालतन

अपना एतराज अधोहस्ताक्षरी के न्यायालय में उपस्थित होकर पेश कर सकता है अन्यथा उपरोक्त नाम दुरुस्ती करने के आदेश दे दिए जाएंगे उसके उपरान्त कोई एतराज न सुना जाएगा।

आज दिनांक 16-08-2022 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित / —
सहायक समाहर्ता, प्रथम श्रेणी,
ऊना, जिला ऊना (हि0प्र0)।

CHANGE OF NAME

I, Parkash Chand s/o Sh. Daulat Ram, r/o Village Sai Brahamna, P.O. Sai Kharsi, Tehsil Sadar, District Bilaspur (H.P.) do hereby solemnly affirm and declare that in the 10th class CBSE marksheet of my son Mahesh Sharma name of his mother has been wrongly entered as Manoja Kumari. Therefore, the correct name, Manoj Kumari, should be entered in the aforesaid Board's Records.

PARKASH CHAND,
s/o Sh. Daulat Ram,
r/o Village Sai Brahamna, P.O. Sai Kharsi,
Tehsil Sadar, District Bilaspur, Himachal Pradesh.

